

IN THE
Supreme Court of the United States
OCTOBER TERM, 1968

No. 548

RODERICK JENKINS, *Appellant*,

v.

JOHN JULIEN McKEITHEN, ET AL., *Appellees*.

ON APPEAL FROM A JUDGMENT OF THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT OF LOUISIANA

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APPENDIX

[March 11, 1968]

UNITED STATES DISTRICT COURT

**EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION**

Civil Action No. 68-38

RODERICK JENKINS

v.

**JOHN JULIEN McKEITHEN, CECIL MORGAN, PAUL M. HEBERT,
FLOYD C. BOSWELL, RALPH F. HOWE, A. R. JOHNSON, III,
BURT S. TURNER**

Original Complaint

I.

JURISDICTION

(a) The jurisdiction of this court is invoked under Title 42, United States Code, Sections 1981, 1983 and 1988, this being an action in which a citizen of the United States contends that he has been, is now, and threatens to continue to be denied of rights, privileges and immunities secured to him by the Constitution of the United States, and of the full and equal benefits and protection of pertinent laws of the State of Louisiana, and thus, is deprived of his legal rights as a citizen of the State of Louisiana and of the United States contrary to the Constitution and laws of the United States.

(b) The jurisdiction of this court is further invoked under Title 28, United States Code, Sections 1333(3) (4), this being an action for the redress of the deprivation, under

color of law, of rights, privileges and immunities secured to complainant as a citizen of the United States by the Constitution and laws of the United States.

II.

INJUNCTIVE RELIEF

The jurisdiction of this court is also invoked under Title 28, United States Code, Sections 2281 and 2284, this being an action for injunctive relief, both temporary and permanent, to enjoin and restrain the enforcement, operation and execution of statutes, and certain orders, rules, resolutions and regulations promulgated and issued by and which are to be promulgated and issued by an administrative agency, board and instrumentality of the State of Louisiana pursuant to or in purported reliance upon the statute complained of and set forth more fully hereinafter.

III.

DECLARATORY JUDGMENT

This is a proceeding pursuant to Title 28, United States Code, Sections 2201 and 2202, for a declaratory judgment to determine and define the legal rights and relations of plaintiff and those similarly situated in the subject matter of this controversy and for a final adjudication of all matters in actual controversy between the parties to this cause, to-wit: The questions:

- (a) Whether the provisions of Act No. 2 of the First Extraordinary Session of the Louisiana Legislature for 1967, otherwise known and cited as R.S. 23:880.1-880.18 (hereinafter sometimes referred to simply as "said Act"), deny to plaintiff and those similarly situated of their rights, privileges and immunities as citizens of the United States and of due process and equal protection of law secured to them by the Fourteenth Amendment to the United States Constitution and of rights and privileges secured to them

by Section 1981, 1983 and 1988 of Title 42, United States Code, and is for those reasons unconstitutional and void.

(b) Whether the acts and deeds of defendants or either of them, their agents, employees and representatives, while acting or purporting to act pursuant to or under color of state law and in conspiracy among themselves and with others, of: (inter alia) (1) intimidating, coercing and inducing, by promises, threats and actual giving of things of value, person to make and/or subscribe to knowingly false statements of criminal activities and knowingly using such fraudulent evidence as a basis to bring about indictments and pursue the criminal prosecution of plaintiff and those similarly situated, (2) intimidating, coercing and wrongfully inducing public officials to initiate and prosecute knowingly false criminal charges against plaintiff and those similarly situated, (3) knowingly, purposefully and willfully intimidating state court judges at a time when said officials have under consideration the judicial determination of legal controversies involving the rights, privileges and immunities of plaintiff and those similarly situated, and (4) knowingly, purposefully and willfully seeking the destruction of the labor union and its leadership to which plaintiff and those similarly situated belong as accredited members thereof and upon which plaintiff and those similarly situated rely for the acquisition and maintenance of fair wages and decent working conditions as laborers, deny to plaintiff and those similarly situated of rights, privileges and immunities secured to them by the Constitution and laws of the United States of America.

IV.

FACTS

(1) Plaintiff alleges that he is an adult citizen of the United States and of the State of Louisiana, and that at all times material hereto was a resident of East Baton Rouge Parish, Louisiana, functioning as a laborer and a

member of the labor union known as Teamsters Local No. 5 of Baton Rouge, Louisiana.

(2) At all times material hereto John Julien McKeithen, an adult male residing in East Baton Rouge Parish, Louisiana, was acting under color of law functioning as Governor of the State of Louisiana and as such as director of the administrative agency created by the state law complained of and known as the Labor-Management Commission of Inquiry.

(3) At all times material hereto Cecil Morgan, an adult male residing in New Orleans, Louisiana; Paul M. Hebert, an adult male residing in East Baton Rouge Parish, Louisiana; Floyd C. Boswell, an adult male residing in Shreveport, Louisiana; Ralph F. Howe, an adult male residing in Baton Rouge, Louisiana; A. R. Johnson, III, an adult male residing in Lake Charles, Louisiana; and Burt S. Turner, an adult male residing in Baton Rouge, Louisiana, were acting under color of state law functioning as members of the Labor-Management Commission of Inquiry, a body politic of the State of Louisiana, having been appointed thereto by defendant John Julien McKeithen.

(4) Plaintiff alleges that the state statute complained of creates as aforesaid a Commission of Inquiry; this Commission of Inquiry however is nothing but an executive trial agency, invested with broad police powers, including the power of subpoena, contempt citation for disobedience of its orders and the taking of evidence anywhere in and out of the State of Louisiana. The great arsenal of power possessed by this Commission is concentrated in a narrow functional chamber aimed at conducting public trials concerning criminal law violations; by virtue of the provisions of Section 880.6(b) it is prohibited from engaging in legitimate fact finding investigation leading to the discovery of relevant evidence in connection with labor-management relations, upon which to base any recommendation for remedial legislation.

(5) Plaintiff further alleges that said Commission of Inquiry is an executive trial agency which receive evidence to ascertain the existence of "facts surrounding or pertaining to *** any actual or probable violations of the criminal laws of this state (Louisiana) or of the United States which relate to, arise out of or are connected with problems or disputes in the field of labor-management relations". Section 880.6(a). Further plaintiff alleges that after conducting its said investigations and hearings, it is the mandatory duty of the Commission to make findings of fact limited to two objectives: (a) violations of any criminal law or laws of the State of Louisiana and of the United States, and (b) the guilt or innocence of specific individuals as to such alleged criminal law violations. Section 880.7(a). Not only is it the mandatory duty of the Commission to make such "findings", but the Commission must "publicize" these "findings". Additionally no such "findings" can be made and "publicized" unless it is preceded by a "public hearing". Section 880.7(a). Thus the legislative intent to "publicly" condemn is unmistakable clear. After the Commission has made public "findings" that certain citizens are criminals it then becomes its mandatory duty to "report its findings and recommendations to the proper federal and state authorities, or either of them, charged with the responsibility for prosecution of criminal offenses", in addition to which, when directed to do so by the Commission, the chairman of the Commission "shall file appropriate charges with the state and federal authorities having jurisdiction". Section 880.7(b).

(6) Plaintiff alleges that in essence the function of the Commission is accusatory in nature whose duty it is to name individuals who are guilty of criminal law violations by formal "findings" of guilt arrived at only after a "public hearing" as to such guilt and thereafter to "publicize" such guilty verdict and thereafter to report its "findings" to state or federal authorities charged with the responsi-

bility of instituting criminal prosecution or for its chairman to so institute criminal prosecution of such individuals as part of the process of criminal prosecution.

(7) Plaintiff alleges that despite the fact that said Commission of Inquiry exercises (a) an accusatory function, (b) its duty to find that named individuals are responsible for criminal law violations, (c) it must advertise such findings, and (d) its findings serve as part of the process of criminal prosecution, there is denied to a person compelled to appear before said Commission (1) the right to the effective assistance of counsel, (2) the right of confrontation, (3) the right to compulsory process for the attendance of witnesses on behalf of such an accused person, and (4) there are no effective and meaningful rules of evidence regulating the admissibility of evidence, (5) no meaningful and definable standards of guilt or innocence, (6) no right of appeal, and no right effectively to invoke the Fifth Amendment immunity against self-incrimination, inasmuch as said Commission has power to compel one to publicly confess his guilt of criminal law violation by simply purporting to extend to him immunity from both state and federal criminal prosecution. Section 880.13.

(8) Furthermore complainant alleges that said defendants, their agents, representatives and employees, and those acting in concert with them, in connection with the administration of the provisions of said Act, have singled out complainant and members of Teamsters Local No. 5 as a special class of persons for repressive and willfully punitive action, solely because they are members of said Teamsters Local No. 5, in furtherance of which a deliberate effort has been made and continues to be made by said officials, spearheaded by defendant McKeithen, while acting under color of state law, to destroy the current power structure of the labor union aforesaid and said union to which complainant belongs as a member and through which he experiences economic survival, and to install a new power structure

oriented and subservient to the James R. Hoffa group or clique of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America; this effort has included and continues to include (a) the deliberate circulation for public consumption of willful falsehoods about members of said labor union, such as characterizing said members as "hoodlums" and "gangsters", comparable in depravity to the sinister Mafia gangsters of underworld criminals, while masking such lawless conduct behind a verbal facade of law and order, (b) the indiscriminate filing of criminal charges against members of said labor union, where there exists no justifiable basis therefor and the concomitant exaction of excessive bail bonds, (c) the intimidating of public officials into carrying out the tyrannical aims of such indiscriminate criminal prosecution, and (d) the dictatorial use of the powers of the office of Governor of Louisiana in furtherance thereof.

(9) Furthermore complainant alleges, as more specifically applies to him, that, in furtherance of said conspiracy, on February 15, 1968 on Sam Cashio, while acting in concert with defendants herein, and acting under color of law while functioning as District Attorney, filed in the Eighteenth Judicial District Court, Parish of Iberville, Louisiana, a bill of information against complainant, assigned as docket number 9840 of said state court, whereby complainant is charged with a criminal conspiracy to commit a battery with a dangerous weapon on one W. O. Bergeron; a bill of information, assigned as docket number 9841 of said state court, whereby complainant is charged with a criminal conspiracy to commit a battery with a dangerous weapon on one Warren Shores; a bill of information, assigned as docket number 9842, of said state court, whereby complainant is charged with a criminal conspiracy to commit a battery with a dangerous weapon on one Alfred Bergeron; a bill of information, assigned as docket number 9843 of said state court, whereby complainant is charged

with a criminal conspiracy to commit a battery with a dangerous weapon on one Cornelius Green.

(10) Complainant alleges that there is no factual or legal basis whatever for the filing of said criminal charges against your complainant; complainant alleges that said criminal charges were filed against him to inflict summary punishment upon your complainant solely because he is a member of the Teamsters Local Union No. 5; furthermore complainant alleges that defendants and the said Sam Cashio and other state officials know that there exists no factual or legal basis for the criminal prosecution of your complainant as thus exemplified and that said defendants have no reason to believe that complainant committed the said criminal activities charged against him and that said defendants knew or had good reason to know by the exercise of due diligence that at all times material to said criminal charges your complainant was at the site of his employment at Baton Rouge, Louisiana, where he functioned and had been functioning as an employee of Kaiser Engineers, a division of Henry J. Kaiser Company at Baton Rouge, Louisiana.

(11) Complainant further alleges that on February 20, 1968, acting through counsel, he filed a petition for a preliminary examination or alternatively for a speedy trial as to said criminal charges alleging that said criminal charges were scandalously and willfully false and without factual support whatsoever; complainant alleges that he sought to have an expeditious determination of the falsity of said charges by way of a preliminary examination in order to avoid the unnecessary expenditure of a considerable sum of money for the engagement of counsel and also to avoid the ignominy of a public trial concerning criminal charges that were patently false and without foundation whatever.

(12) Complainant alleges that his said application was presented to G. Ross Kearney, Jr., a duly elected and consti-

tuted judge of the Eighteenth Judicial District Court of the State of Louisiana aforesaid: said state judge however took no action whatever on complainant's said application, in consequence of which complainant filed an application for a writ of mandamus and prohibition with the Supreme Court of the State of Louisiana seeking an order from said court to compel said state district court judge to take action on complainant's said application and to grant such a preliminary examination or a speedy trial.

(13) Complainant alleges that his application for mandamus was filed with the Office of the Clerk of the Louisiana State Supreme Court on February 29, 1968, and was assigned docket number 49,125, and on the same date, namely February 29, 1968, said application was denied, no reason being given except the following: "The application is denied. The showing made does not warrant the exercise of our supervisory jurisdiction."

(14) Complainant alleges that after said denial as aforesaid said state district Judge G. Ross Kearney, Jr. on March 1, 1968 finally took action on complainant's application for a preliminary examination and alternatively for a speedy hearing; said state district judge denied complainant's application for a preliminary examination observing that since complainant "is now out on bail a preliminary hearing would serve no useful purpose", thus ignoring the fact that the prosecution of complainant on the basis of such false accusation will of necessity engage him in the expenditure of a considerable amount of money and subject him to the ignominy of a public trial; further said district court judge observed that the regular criminal term of court for the said state court was due to commence on April 15, 1968 at which time trial of jury cases would begin.

(15) Complainant further alleges that defendants, their agents, employees and representatives, while acting under state law, in concert and conspiracy among themselves and with others, by acts of threats, intimidation, promises and

bribery have knowingly obtained false statements from persons so induced and have knowingly used such fraudulent evidence as a means of bringing about the indictment and criminal prosecution of other members of Teamsters Local No. 5; that said defendants furthermore have engaged in the intimidation of state officials, including state court judges as a means of depriving complainant and members of the Teamsters Local No. 5 of constitutional due process and equal protection of state laws.

(16) Complainant alleges that said defendants intend to continue to deprive your complainant and those similarly situated of their rights, privileges and immunities secured to them by the Constitution and laws of the United States only because plaintiff and other members of Teamsters Local No. 5 are members of said labor union; further complainant alleges that he and members of said labor union are now and threaten to continue to be greatly harmed, damaged, imprisoned and injured by the illegal, wrongful and knowing and purposeful acts of said defendants and each of them, and they have no plain, adequate or efficient remedy at law to redress the wrongful, knowing and purposeful acts of said defendants other than this action for declaratory judgment and injunctive relief; that any other remedy to which they could be remitted would be attended by uncertainties, would involve a multiplicity of suits and would cause complainant irreparable harm and injury and occasion undue hardship, vexation and delay.

(17) Complainant further alleges that unless this Honorable Court do issue a temporary restraining order immediately and without a hearing, enjoining, restraining and prohibiting said defendants, their agents, servants, employees and/or successors in office and those acting in concert with them, from denying or depriving complainant and those similarly situated of their rights, privileges and immunities as citizens of the United States and of the State of Louisiana on the basis that they are members of Teamsters Local No. 5 or from making any other distinction as

to them because they are members of said labor union and from enforcing or executing the provisions of Act No. 2 of the First Extraordinary Session of the Louisiana Legislature for 1967 and from instituting or maintaining any actions at law, civil or criminal, now pending in any of the courts of the State of Louisiana or intended hereafter to be instituted by them or those acting in concert with them, complainant and those similarly situated will suffer immediate and irreparable injury, harm, damage, imprisonment, forfeitures and fines; that, furthermore, said temporary restraining order is necessary in the interest of justice for the purpose of maintaining the status quo relative to the operation, enforcement and execution of the state statute complained of herein, until such time as this Honorable Court may determine the issues presented hereby, after full hearing and opportunity afforded plaintiff to furnish extrinsic proof of the substantial averments of the complaint.

(18) Complainant annexes hereto:

1. A copy of the state statute complained of herein, marked as Exhibit "A".
2. Copies of criminal charges herein aforesaid, marked Exhibits "B", "C", "D" and "E".
3. Copy of Application for Preliminary Examination or Speedy Hearing filed in the Eighteenth Judicial District Court, Iberville Parish, Louisiana, marked Exhibit "F".
4. Copy of Application for Writ of Mandamus and Prohibition filed in the Louisiana State Supreme Court, marked Exhibit "G".
5. Copy of denial of said application by the Louisiana State Supreme Court, marked Exhibit "H".
6. Copy of denial by State District Court Judge of Application for Preliminary Examination and Speedy Hearing, marked Exhibit "I".

WHEREFORE COMPLAINANT RESPECTFULLY PRAYS that upon the filing of this complaint, as may appear fitting and proper to the court:

(1) That a statutory three judge district court be convened pursuant to Sections 2281 and 2284 of Title 28, United States Code;

(2) That a temporary restraining order to issue immediately and without a hearing enjoining, restraining and prohibiting said defendants, their agents, servants, employees and/or successors in office and those acting in concert with them, from denying or depriving complainant and those similarly situated of their rights, privileges and immunities as citizens of the United States and of the State of Louisiana on the basis that they are members of Teamsters Local No. 5 or from making any other distinction as to them because they are members of said labor union and from enforcing or executing the provisions of Act No. 2 of the First Extraordinary Session of the Louisiana Legislature for 1967 and from instituting or maintaining any action at law, civil or criminal, now pending in any of the courts of the State of Louisiana or intended thereafter to be instituted by them or those acting in concert with them;

(3) That this cause be advanced on the docket of this court and set for a speedy hearing according to law and upon such preliminary hearing that a preliminary injunction in the nature and substance of the temporary restraining order herein prayed for do issue, enjoining, restraining and prohibiting said defendants, their agents, servants, employees and successors in office to the extent in the nature and form of said temporary restraining order herein prayed for.

(4) That upon final hearing of this cause on its merits, this Honorable Court will:

(a) Enter a final judgment and decree that will declare and define the legal rights and relations of the parties in the subject matter in controversy.

(b) Enter a final judgment, order and decree that will declare that Act No. 2 of the First Extraordinary Session of the Louisiana Legislature for 1967, and all resolutions, rules and regulations of the Labor-Management Commission of Inquiry adopted pursuant thereto that require, permit or sanction the enforcement of said statute and rules and regulations against complainant and those similarly situated, is unconstitutional, null and void as a matter of law or because of the intentional knowing and purposeful acts, deeds and conduct of said defendants in the administration of the provisions thereof.

(c) Enter a permanent injunction that will enjoin and restrain said defendants, their agents, servants, representatives and employees and their successors in office and all persons acting in concert with them forever from executing or enforcing against plaintiff and those similarly situated any of the provisions of said state law or any rule or regulation or resolution or any other order or orders made or issued pursuant thereto that require, permit or encourage the denial to plaintiff or those similarly situated or any of them of their rights, privileges and immunities as secured to them by the United States Constitution and that will further enjoin said defendants, their agents, employees, servants or successors in office to hold in status quo all actions at law, whether civil or criminal now pending in the courts of the State of Louisiana and that will further enjoin said parties from taking any further or other actions, civil or criminal, in any court in pursuant of said statute, rules, regulations, resolutions or orders adopted pursuant thereto for in pursuance to any judgment, order or decree heretofore obtained or to hereafter obtained in purported reliance on the statute complained of or the rules, regulations or resolutions adopted pursuant thereto, and that they, said defendants, and those acting in concert with them, shall cease and desist from discriminating in any way against plaintiff and those similarly situated solely because

of their classification as members of Teamsters Local Union No. 5 of Baton Rouge, Louisiana.

(d) That this Honorable Court allow plaintiff his costs incurred herein and grant such other and further relief as may appear just and proper.

J. MINOS SIMON
1408 Pinhook Road
Post Office Box 52116, OCS
Lafayette, Louisiana

/s/ J. MINOS SIMON
Attorney for Complainant

STATE OF LOUISIANA
PARISH OF LAFAYETTE

J. MINOS SIMON, being first duly sworn, did depose and say that he is of counsel in the foregoing complaint, that he has prepared and read the same and that all of the allegations of fact therein contained are true and correct to the best of his knowledge, information and belief.

/s/ J. MINOS SIMON
J. Minos Simon

SWORN TO AND SUBSCRIBED before me on this 7th day of March, 1968, at Lafayette, Louisiana.

RONALD E. DAUTIEU
Notary Public

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Minute Entry: March 13, 1968

WEST, J.

After due consideration of plaintiff's application contained in his complaint for the issuance of a temporary restraining order:

IT IS ORDERED that plaintiff's motion for the issuance of a temporary restraining order be, and it is hereby DENIED.

E. GORDON WEST

United States District Judge

[Filed March 19, 1968]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Civil Actions No. 68-38 and 68-42

Order re Three-Judge Court

(1) Requesting Judge: E. GORDON WEST, Eastern District of Louisiana.

(2) District Judge: LANSING L. MITCHELL, Eastern District of Louisiana.

(3) Circuit Judge: JOHN MINOR WISDOM.

(4) Date of Order: March 19, 1968.

The Requesting Judge (1) above named to whom an application for relief has been presented in the above cause having notified me that the action is one required by Act of Congress to be heard and determined by a District Court

of three Judges, I, John R. Brown, Chief Judge of the Fifth Circuit, hereby designate the Circuit Judge (3) and District Judge (2) named above to serve with the Requesting Judge (1) as members of, and with him to constitute the said Court to hear and determine the action.

This designation and composition of the three-judge court is not a prejudgment, express or implied, as to whether this is properly a case for a three-judge rather than a one-judge court. This is a matter best determined by the three-judge court as this enables a simultaneous appeal to the Court of Appeals and to the Supreme Court without the delay, awkwardness, and administrative insufficiency of a proceeding by way of mandamus from either the Court of Appeals, the Supreme Court, or both, directed against the Chief Judge of the Circuit, the presiding District Judge, or both. The parties will be afforded the opportunity to brief and argue all such questions before the three-judge panel either preliminarily or on the trial of the merits, or otherwise, as that Court thinks appropriate.

/s/ JOHN R. BROWN
John R. Brown
Chief Judge
Fifth Circuit

[Filed March 25, 1968]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Order and Notice of Hearing

A three judge District Court having been convened in these cases, composed of Circuit Judge John Minor Wisdom, District Judge E. Gordon West, and District Judge Lansing L. Mitchell, and it appearing that these two cases involve substantially the same question of law:

IT IS THEREFORE ORDERED that the above two captioned cases be, and they are hereby consolidated for hearing on their merits.

IT IS FURTHER ORDERED that, in compliance with the provisions of Title 28, United States Code, Section 2284, notice is hereby given to the Attorney General of the State of Louisiana, that the question of the constitutionality of Act No. 2 of the Extra Session of the Louisiana Legislature for 1967, and all other matters contained in these suits determined to be properly before said Court, be, and they are hereby set for hearing before said Court in New Orleans, Louisiana, at 10:00 o'clock a.m. on Wednesday, May 1, 1968.

IT IS FURTHER ORDERED that, in compliance with the provisions of Title 28, United States Code, Section 2284, copies of this notice be mailed, by registered mail or by certified mail, by the Clerk of this Court, to all parties entitled to notice hereof, said notice to be complete by the mailing thereof.

Baton Rouge, Louisiana, March 25, 1968.

/s/ E. GORDON WEST
*United States
District Judge*

[Filed April 8, 1968]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Answer

Defendants for answer to the complaint, at this time, under full reservation of their previously filed Motion to Dismiss, and without in any manner waiving the same, or the right to request the Court to first dispose of the same before entering upon the trial of the merits hereof, all under the instructions of this Court that this cause, on motions and merits, will be heard on May 1, 1968, the date assigned therefor, alleges:

FIRST DEFENSE

There is a lack of jurisdiction of this Court over the subject matter of the complaint, all as pleaded in said Motion to Dismiss and the Memorandum filed in support thereof.

SECOND DEFENSE

The complaint fails to state a claim upon which relief can be granted inasmuch as the statute attacked is constitutional, all as pleaded in said Motion to Dismiss and Memorandum filed in support thereof.

THIRD DEFENSE

The complaint fails to state a claim under which a court of equity should enjoin a criminal prosecution in a state court, all as pleaded in said Motion and Memorandum filed in support thereof.

FOURTH DEFENSE

1.

Defendants deny the allegations contained in paragraphs I, II and III of the complaint; and defendants admit the following subparagraphs of paragraph IV of the complaint, viz: 3 and 18; and defendants allege that they are

without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the following subparagraphs of paragraph IV of the complaint, viz: 1, 11, 12, 13 and 14; and defendants deny the following subparagraphs of paragraph IV of the complaint, viz: 8, 9, 10, 15, 16 and 17.

2.

For answer to subparagraph 2 of said paragraph IV of the complaint, respondents admit that John Julien McKeithen is governor of the State of Louisiana, residing in the Parish of East Baton Rouge, but defendants deny the remaining allegations thereof.

3.

Defendants deny the allegations of subparagraphs 4, 5, 6 and 7 of paragraph IV of the complaint and aver that the statute is the best evidence of its provisions.

WHEREFORE defendants pray that plaintiff's suit be dismissed at his cost.

By ATTORNEYS,

JACK P. F. GREMILLION

Attorney General of Louisiana

ASHTON L. STEWART

*Special Assistant Attorney
General of Louisiana*

VICTOR A. SACHSE

*Special Assistant Attorney
General of Louisiana*

By ASHTON L. STEWART,

Ashton L. Stewart,

Trial Attorney

604 Union Federal Building
Baton Rouge, Louisiana 70801
Telephone No. 342-4796

Attorneys for Defendants

[Certificate of Service omitted]

[Filed April 8, 1968]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Defendants' Motion To Dismiss

The defendants, JOHN JULIEN McKEITHEN, CECIL MORGAN, PAUL M. HEBERT, FLOYD C. BOSWELL, RALPH F. HOWE, A. R. JOHNSON, III, and BERT S. TURNER, move to dismiss the complaint filed by the plaintiff for the following reasons, viz:

I.

Lack of standing of plaintiff to question constitutionality of statute.

II.

Failure to state a claim upon which relief can be granted as the Statute attacked is constitutional.

III.

Failure to state a claim under which a court of equity should enjoin a criminal prosecution in a state court.

WHEREFORE, the defendants ask that the complaint be dismissed.

BY ATTORNEYS,

JACK P. F. GREMILLION

Attorney General of Louisiana

ASHTON L. STEWART

*Special Assistant Attorney
General of Louisiana*

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Telephone No. 342-4796

Attorneys for Defendants

[Certificate of Service omitted]

[Filed April 8, 1968]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Notice of Motion

To:

J. Minos Simon, Esq.
Simon Building
1408 Pinhook Road
Lafayette, Louisiana 70501
Attor~~ey~~ for Plaintiff,
Roderick Jenkins

Please take notice that the undersigned counsel for defendants will bring the motion to dismiss, filed this day in the captioned, on for a hearing before the Court in New Orleans, Louisiana, at 10:00 o'clock A.M. on the 1 day of May, 1968, or as soon thereafterwards as counsel can be heard.

Baton Rouge, Louisiana, April 8, 1968.

By ATTORNEYS,

JACK P. F. GREMILLION
Attorney General of Louisiana

ASHTON L. STEWART
*Special Assistant Attorney
General of Louisiana*

VICTOR A. SACHSE
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Telephone No. 342-4796

Attorneys for Defendants

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Number 68-38

Civil Action Number 68-42

Minute Entry: April 25, 1968

WEST, J.

IT IS ORDERED that the hearing set in this matter before a Three Judge Court in New Orleans, Louisiana, on May 1, 1968, be, and it is hereby CONTINUED, SUBJECT TO RE-ASSIGNMENT, and

IT IS FURTHER ORDERED that all subpoenas issued in this case for said hearing on May 1, 1968, be, and they are hereby RECALLED, RESCINDED AND CANCELLED.

IT IS FURTHER ORDERED that the Clerk immediately serve, by mail, a copy of this order on all counsel of record, and that counsel of record, immediately upon being notified, either verbally or by receipt of this order, notify all witnesses of the cancellation of subpoenas previously issued herein.

E. GORDON WEST
United States District Judge

[Filed May 3, 1968]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Supplemental and Amending Petition

For a supplemental petition complainant respectfully gives the court to understand the following:

1.

Since the filing of the original complaint herein defendants and their employees, agents and representatives have continued to pursue the willful course of conduct designed to deprive complainants and those belonging to Teamsters Local Number 5 of their rights, privileges and immunities secured to them by the Constitution and laws of the United States; said defendants have frantically intensified their efforts in fulfillment of the conspiracy aforesaid to the point where the very lives of complainant and those belonging to Teamsters Local Number 5 of Baton Rouge, Louisiana are in imminent peril.

2.

Complainant is informed, believes and therefore states that six members of Teamsters Local Number 5 of Baton Rouge, Louisiana, have been singled out for murder by officials of the Labor-Management Commission of Inquiry of Louisiana; complainant alleges that officials of the Labor-Management Commission of Inquiry have advised certain employees of said State Commission that J. D. Arnold, Wade McClanahan, Terry George, Jerry Sylvester, Hugh Marionneaux and Lloyd Kitchen, all members of Teamsters Local Number 5 of Baton Rouge, Louisiana, could be shot and killed on sight at the slightest provoca-

tion and any employee killing any one of these union members would be granted complete immunity by the Governor of the State of Louisiana.

3.

Complainant believes that defendants, their agents, employees and representatives, while acting under color of law, are deliberately going about attempting to provoke members of Teamsters Local Number 5 of Baton Rouge, Louisiana, including your complainant, in an effort to create colorable justification for the intentional killing of said members in fulfillment of their conspiracy to destroy the current leadership of Teamsters Local Number 5 and discredit the membership thereof in an effort to replace that leadership with officials friendly to the James R. Hoffa group of the International Teamsters Union or alternatively thereby to induce Edward Grady Partin to recant in whole or in part the testimony he gave against the said James R. Hoffa in connection with the prosecution of the said Hoffa by the United States Government.

4.

More particularly complainant is informed, believes and therefore states that on April 29, 1968 at approximately 3:45 P.M., in furtherance of the conspiracy aforesaid, a state trooper whose name complainant is informed is Hamilton, accompanied by one whose name complainant is informed is Maronneaux, then allegedly functioning as Assistant Attorney General of Louisiana, and one whose name complainant is informed is Pete Brandon, an alleged investigator for the Labor Management Commission of Inquiry of Louisiana, appeared at the residence of Wade McClanahan, one of the six members of Teamsters Local Number 5 of Baton Rouge, Louisiana, singled out for murder as aforesaid, and upon arrival quickly jumped out of their automobile massively armed, the said Hamilton carrying a sawed-off 12 gauge shotgun and the said Marion-

neaux and Brandon brandishing each a firearm, including a 30-30 high powered rifle and said agents of defendants herein knocked at the front door of McClanahan's residence in response to which McClanahan's wife appeared; when informed that said agents had a warrant for McClanahan's arrest, Mrs. McClanahan responded that Mr. McClanahan was not in to which agent Brandon responded in substance, "Lady, I know that he's in there and if you are going to stand there in the door and lie to me we are going to put you under arrest and take you to jail too". Agent Brandon further stated that according to an alleged written statement by McClanahan's physician, McClanahan was supposed to be in bed and if he wasn't he, the said agent Brandon, could put both McClanahan and his physician in jail; said agents further told McClanahan's wife to get out of the doorway as they were going in; when she responded that they could not make a search of her house without a warrant, said agents responded that they did not need a search warrant to search the house; Mrs. McClanahan advised said agents that they would have to break down the door because she would not voluntarily permit them into the house.

5.

Complaint is further informed that said agents went in hiding in the residence of the next door neighbor to await McClanahan's arrival. McClanahan arrived at his residence at approximately 4:10 P.M.; upon arrival said agents converged upon him in an excited and hostile manner as though said McClanahan were a notorious criminal; agent Hamilton pointed the sawed-off shotgun at McClanahan's head, the muzzle of which came to rest against the left back quadrant of his said head, while the two other agents stood by with their 30-30 high powered rifles at the ready; he was ordered out of his car, made to face his automobile with his hands stretched out against the vehicle while they searched him and then his hands were cuffed

behind him and he was told that he was being arrested for having a machine gun; said agents refused to permit said McClanahan to read the warrant of arrest and as Mrs. McClanahan approached the arresting officers for the purpose of reading said arrest warrant agent Brandon forcefully pushed her against a nearby tree and agent Hamilton quickly turned about and pointed his loaded sawed-off shotgun at her.

6.

Complainant is further informed, believes and therefore states that at the time of the occurrence of the foregoing all of McClanahan's four minor children, ranging in age from one to ten years, were present; because of the brutal handling of McClanahan and his wife by said agents, all done in the apparent effort to provoke McClanahan into protecting his wife so as to have a colorable justification to kill said McClanahan, McClanahan's four year old son, Richard Wade, came running up to the car while exclaiming "Daddy, daddy, daddy", whereupon agent Marneaux whirled about and pointed his 30-30 caliber rifle at the head of McClanahan's little son and ordered him to get back.

7.

Complainant is informed, believes and therefore states that despite the peaceful surrender of McClanahan under the distressful situation aforesaid, said agents radioed for reinforcement; said agents furthermore forcefully carried McClanahan to the Denham Springs jail where he was charged with possession of a machine gun though, according to complainant's information, said McClanahan owns no such firearm; furthermore said agents obtained a search warrant to search McClanahan's house; in the meantime, however, in response to the aforesaid radio call eight or ten additional police officers converged on McClanahan's house and guarded it until the aforesaid agents could return to search said house allegedly for the discovery of a

machine gun and a 12 gauge shotgun; said agents returned, searched McClanahan's house even to the point of opening envelopes bearing personal communication in their effort to discover said objects and found nothing and contrary to the provisions of the warrant aforesaid confiscated a box of 12 gauge shotgun shells.

8.

Complainant is informed that simultaneously therewith similar searches were made of the offices of Teamsters Local Number 5 located at 1675 Airways Drive, Baton Rouge, Louisiana, of the residence of Jerry Sylvester, one of the members of Teamsters Local Number 5 marked for murder as aforesaid and of the residence of one Calvin Fontenot; complainant states that according to the information such raids by the use of massive police force ostensibly are designed to attempt to collect evidence in support of criminal charges filed against complainants and other members of Teamsters Local Union Number 5 of Baton Rouge, Louisiana, because said charges as stated in the original complaint, were knowingly filed without legal or factual basis; additionally, however, said conduct is an act in furtherance of this conspiracy to deprive complainant and members of Teamsters Local Number 5 of their rights, privileges and immunities secured by the United States Constitution.

9.

Complainant is further informed, believes and therefore states that in the latter part of March, 1968, defendants, acting by and through employees, agents and representatives of the Labor Management Commission of Inquiry engaged the services of one Billy D. Miller to attempt to bribe Wade McClanahan to give a false statement incriminatory of Edward Grady Partin; this effort culminated in Grapevine, Texas on April 2, 1968 where and when the said Billy D. Miller offered on behalf of the officers of the Labor Management Commission of Inquiry to pay the sum

of One Hundred Thousand (\$100,000.00) Dollars to the said Wade McClanahan in exchange for a statement that would be prepared by agents and representatives of said state agency that would be incriminatory of the said Edward Grady Partin; complainant is informed, believes and therefore states that the said Wade McClanahan pretended complicity with the said Miller to test the authenticity of said bribery offer whereupon, according to your complainant's information, said Miller was in communication by telephone with Joseph Oster, an investigator for the Labor Management Commission of Inquiry, and Thomas McFerrin, Assistant Attorney General functioning as counsel for said state agency; upon being advised by said Miller of McClanahan's willingness to accept the offered bribery said McFerrin and Oster boarded an airplane for Grapevine, Texas and arrived in Dallas, Texas which is adjacent to Grapevine, Texas, in furtherance of said conspiracy of bribery; complainant avers, however, that before their arrival McClanahan contacted the office of the sheriff of Dallas County to advise him of the attempted bribery as a consequence of which said Miller, Oster and McFerrin aborted the bribery attempt.

10.

Complainant further states that since the filing of his original complaint the defendants, acting through the Louisiana State Police and through other agents, have embarked on a course of harassment directed against complainant and his employer, in furtherance of the conspiracy mentioned in his original complaint; said defendants through said agents have appeared at the office of complainant's employer, Kaiser Aluminum Company, demanding to see complainant's employment records and though told that complainant was at his job site at all times during the alleged occurrence of the criminal activities for which he has been charged as set out in his original complaint, and despite the further fact that his employment records con-

firmed that fact, said agents have repeatedly appeared at said employment site, have attempted to make guards state or acknowledge that they didn't know complainant well enough to recognize him and therefore could not state that he was at his job site at the time of the alleged criminal activities and have similarly gone about questioning co-employees of your complainant, all for the willful purpose of attempting to compromise complainant's legal rights in an effort to bring about his criminal conviction and imprisonment, though said defendants know that there exists no factual or legal basis for his prosecution.

11.

Complainant moreover has been informed, believes and therefore states that investigators for the Labor Management Commission of Inquiry have stated that for each witness that complainant would bring to the bar of justice to testify that he was in fact not at the site of the criminal activities mentioned but on the job site at Baton Rouge, Louisiana, said Commission of Inquiry would bring a witness to say that in fact complainant was at the site of the criminal activities, and one more for good measure; furthermore complainant alleges that local officials are being intimidated into carrying out the evil intention of defendants herein and of condoning flagrant violation of the laws of the State of Louisiana and of the legal rights of complainant and those similarly situated, in that defendant McKeithen has said repeatedly that he would ask the Legislature of the State of Louisiana to address out of office any local official who fails to carry out charges developed by employees, agents and representatives of the Labor Management Commission of Inquiry, and has done so.

12.

In furtherance of said conspiracy said defendants through their agents, employees and representatives have now caused Edward Grady Partin to be arrested and

charged with the criminal offense of aggravated assault allegedly occurring some twenty months prior; complainant is informed, believes and therefore avers that the intensification of defendants' efforts, while acting under color of law, is but a response to the announcement of the candidacy of Honorable Robert F. Kennedy for the nomination for the Presidency of the United States by the Democratic party of the United States, in that the conspirators herein are hoping thereby to induce Edward Grady Partin to recant his testimony heretofore given against James R. Hoffa, to be used as a basis to obtain a new trial for and the consequent release from prison of James R. Hoffa prior to the Democratic presidential nomination, so as thereby to thwart the nomination of the said Robert F. Kennedy, who as Attorney General of the United States, ordered and managed the prosecution and conviction of the said James R. Hoffa.

13.

Complainant alleges that the acts of defendants herein, their agents, employees and representatives are facilitated and in large measure made possible by virtue of the provisions of the State Statute, Act No. 2 of the First Extraordinary Session of the Louisiana Legislature of 1967 and of the exercise of the authority of the officials in their capacities with the State of Louisiana.

WHEREFORE, COMPLAINANT PRAYS leave of court to file the foregoing supplemental and amending complaint and that in due course there be judgment as prayed for in his original complaint.

COMPLAINANT FURTHER PRAYS and respectfully moves for the issuance immediately and without a hearing of a temporary restraining order restraining and prohibiting said defendants, their agents, servants, employees and/or successors in office and those acting in concert with them from denying or depriving complainant and those similarly situ-

ated of their rights, privileges and immunities as citizens of the United States and of the State of Louisiana on the basis that they are members of Teamsters Local Number 5 and/or from making any other distinction as to them because they are members of said local union and from enforcing or executing the provisions of Act No. 2 of the First Extraordinary Session of the Louisiana Legislature of 1967 and from maintaining or instituting any action at law, civil or criminal, now pending in any of the courts of the State of Louisiana or intended hereafter to be instituted by them or those acting in concert with them.

J. Minos Simon
Attorney at Law
1408 Pinhook Road
Post Office Box 52116 OCS
Lafayette, Louisiana

/s/ J. MINOS SIMON

Orders

Considering the foregoing prayer and motion:

IT IS ORDERED, that Roderick Jenkins be and he hereby is authorized to file the foregoing supplemental and amending petition.

Granted this 3rd day of May, 1968.

/s/ E. GORDON WEST
U. S. District Judge

Motion for issuance of Temporary Restraining Order is DENIED.

May 3, 1968.

/s/ E. GORDON WEST
U. S. District Judge

STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE

BEFORE ME, William C. Bradley, a Notary Public, duly commissioned and qualified within and for the Parish and State aforesaid, and therein residing, personally came and appeared:

MRS. IMOGENE WILEY COLEMAN

who, after being by me first duly sworn, did depose and say:

She is the wife of Edgar L. Coleman, residing at 908 Florida Boulevard, Denham Springs, Louisiana, and the Mother of four (4) children, ranging in age from six (6) to ten (10).

On Monday, April 29, 1968, she was visiting the residence of Wade McClanahan which is located immediately adjacent to the East of her residence at approximately 4:30 o'clock p.m., when she saw three (3) men disembark from an automobile that came to a parked position immediately in front of the residence of Wade McClanahan and thereupon three (3) men rushed to the Wade McClanahan home with firearms in their hands including what appeared to be a twelve (12) gauge shotgun, a high powered rifle and a pistol. Upon arriving at the door the spokesman, who identified himself as Brandon, stated that they wanted to see Wade McClanahan, and in response to which Mrs. McClanahan asked why and Brandon advised that they had a warrant for his arrest. Mrs. McClanahan advised that Mr. McClanahan was not in the house, whereupon Brandon accused her of lying and told her he would arrest her and put her in jail for lying. At that point she responded to Brandon and assured him that McClanahan was not in the house. Brandon thereupon demanded that Mrs. McClanahan move out of the door because they were coming into the house. She responded that they would not do so without a search warrant. They argued with her that they could come into the house without a warrant and search the house and

arrest him and further stated that according to McClanahan's doctor, McClanahan was suppose to be in bed in his house and that if McClanahan's doctor was lying that he too would be put in jail. Finally the three men went next door and hid inside the next door neighbor's house until Mr. McClanahan arrived approximately twenty (20) minutes thereafter.

Upon his arrival the three (3) men mentioned rushed with their firearms at the ready and pointed towards Mr. McClanahan and demanded that he get out of his car and put his hands over his head and then ordered him to put his hands on top of the car and then proceeded to search him. McClanahan requested to read the arrest warrant but this was refused whereupon Mrs. McClanahan came out of the McClanahan residence and proceeded to attempt to read the arrest warrant. Before she could complete her reading of it, Brandon forcefully shoved her aside and in so doing knocked her against a nearby tree. Because of the conduct of these individuals and the brutality mentioned, the McClanahan children became frantically excited screaming and young Richard Wade McClanahan age four (4) ran toward his Father while exclaiming "Daddy, Daddy, Daddy," and as he got near his Father one of the men whose name is Maronneaux and who had in his hand a high-powered rifle whirled about, pointed the rifle to the child's head and commanded him to move away. Thereupon, affiant took the child into the McClanahan house and away from the firearms and the arresting men.

Thereafter, the said three (3) men ordered McClanahan into their vehicle and Brandon drove away with him, leaving the other two (2) men to guard the area and within a matter of about five (5) minutes thereafter the McClanahan house was surrounded by numerous police officers numbering at least seven (7) all of whom had either a shotgun or a rifle in their hands at the ready at all times. After a short period of time Brandon returned and together with

other officers proceeded to search the McClanahan house. The search continued for a period of approximately thirty (30) minutes and Brandon left the house and took into his possession a box of shotgun shells. He took possession of the shotgun shells over the protest of Mr. William Bradley, Attorney at Law, Baker, Louisiana, who was there present.

/s/ MRS. IMOGENE WILEY COLEMAN
Mrs. Imogene Wiley Coleman

SWORN TO AND SUBSCRIBED before me, Notary Public, on this, the 2nd day of May, 1968.

/s/ WILLIAM C. BRADLEY
William C. Bradley,
Notary Public

STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE

GEORGE WYATT, being first duly sworn, did depose and say:

Heretofore he was employed as an undercover investigator for the Labor Management Commission of Inquiry of Louisiana, taking orders alternately from officers and investigators of said Commission of Inquiry including Raymond Ruiz and Joseph A. Oster; that he was advised by his superiors that every effort should be made to criminally involve Edward Grady Partin primarily, and any member of Teamster Local Union Number 5 of Baton Rouge, Louisiana, so as to bring about the criminal prosecution of Edward Grady Partin and members of Teamsters Local Union Number 5; in pursuit of that particular objective he was advised that he should infiltrate the ranks of Teamsters Local Union Number 5 after which he would be provided with explosives to be used for the purpose of destroying equipment belonging to Barber Brothers Contractors; that

thereafter he was to subscribe to a statement to the effect that, and to testify accordingly, the destruction by bombing of said equipment was done pursuant to instructions given to him by Edward Grady Partin; that officials of Barber Brothers Contractors were made aware of this plot to frame Edward Grady Partin and consented thereto, hedging only to the extent of emphasizing that only the old equipment of Barber Brothers Contractors should be singled out for destruction; in furtherance of said plot affiant was employed by Barber Brothers Contractors under a pseudo name and used license plates from the State of Minnesota on his vehicle.

Affiant further states that he was advised that J. D. Arnold, Wade McClanahan, Terry George, Jerry Sylvester, Hugh Marionneaux and Lloyd Kitchen, members of Teamsters Local Number 5 of Baton Rouge, Louisiana, could be shot and killed by members of the Commission of Inquiry at the slightest provocation in a manner that would make it appear to be an act of self-defense and that complete immunity would be given to any employees of the Commission of Inquiry who would kill said persons.

Affiant further states that he was told by officials of the Labor Management Commission of Inquiry of Louisiana that as much as Fifty Thousand (\$50,000.00) Dollars could be obtained from persons representing James R. Hoffa to pay to affiant in return for getting Edward Grady Partin by any means to admit that his testimony against James R. Hoffa was not entirely correct.

Affiant states that he was given carte blanche authority to do anything that he thought might be effective, regardless of the legality thereof, so long as there could be developed a factual basis for the criminal prosecution of Edward Grady Partin.

Affiant further states that after criminal charges were filed against Roderick Jenkins and after it became evident

that there was no basis for the filing of said criminal charges, Joseph A. Oster, investigator for the Labor Management Commission of Inquiry, in responding to your affiant's statement to the said Oster that it was his information Jenkins had a number of witnesses who would testify that in fact he was on the job site of his employment at the time of the alleged criminal activities for which he was charged, the said Joseph A. Oster stated that he and members of the Labor Management Commission of Inquiry would find and bring to testify for each witness testifying on behalf of Jenkins, persons who would testify to the contrary and that if Jenkins had fifty witnesses to testify that he was not in Plaquemine, Louisiana, at the site of the criminal activities alleged in the charge against him, Oster and members of the Labor Management Commission of Inquiry would have fifty-one witnesses to say that he was there.

/s/ GEORGE D. WYATT
George Wyatt

SWORN TO AND SUBSCRIBED before me on this 2nd day of May, 1968.

/s/ WILLIAM C. BRADLEY
Notary Public

STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE

WADE McCCLANAHAN, being first duly sworn, did depose and say that:

He was a member of Teamsters Local Union Number 5, is married and has four children.

During the latter part of the month of March, 1968, one Billy D. Miller, theretofore known by your affiant, appeared at your affiant's residence at 914 Florida Boulevard, Denham Springs, Louisiana, and visited with him for three or four days.

On or about April 2, 1968, said Billy D. Miller invited affiant to accompany him to Dallas, Texas, which affiant did; upon arrival in Grapevine, Texas, a suburb of Dallas, Texas, said Billy D. Miller advised affiant that he was an employee of the Labor Management Commission of Inquiry of Louisiana; that he, Miller, did not feel that the Teamsters Local Union had treated affiant fairly; that the Commission of Inquiry of Louisiana had authorized him, the said Miller, to arrange a meeting with Joseph A. Oster and Thomas McFerrin of the Commission of Inquiry to work out an arrangement whereby the said affiant would agree to testify against Edward Grady Partin, in return for which affiant would be granted complete immunity for anything that he may have done in the State of Louisiana or for which he was charged plus the fact that he would be given the sum of One Hundred Thousand (\$100,000.00) Dollars, which money would be donated to the Commission by Texaco, Shell and Esso Oil Companies; affiant states that his response was that he did not know anything of a criminal nature or otherwise against the said Edward Grady Partin; the said Miller responded that affiant did not have to know anything against the said Partin; that representatives of the Commission of Inquiry would tell affiant what to say and all affiant had to do was to swear to the truthfulness of whatever he was told to say.

Affiant states that his first reaction was one of outrage but he suppressed his emotions long enough to determine the authenticity of Miller's representation. Affiant further states that he informed Miller he was agreeable and asked the said Miller if he could immediately reach the authorized representatives of the Commission of Inquiry of Louisiana to make the arrangement proposed by the said Miller; affiant states that the said Miller informed affiant he could do so immediately; whereupon affiant made a long-distance telephone call after which affiant states that Miller represented that Joseph A. Oster and Thomas McFerrin were

immediately going to leave for Dallas, Texas, and upon their arrival would meet with affiant for the purpose of making the arrangements for obtaining a statement from the said affiant.

Affiant states that after being so informed he turned on the said Miller and verbalized his appraisal of him by informing said Miller that he, the said Miller, was a moral outcast and a worthless person to believe that affiant would engage in such a fraudulent scheme.

Affiant further states that the said Miller advised him that the Commission was to pay him, the said Miller, the sum of Five Thousand (\$5,000.00) Dollars for arranging the conference with affiant and the ultimate securing of affiant's statement; affiant further states that the said Billy D. Miller informed affiant that said Joseph A. Oster had caused a money order of Two Hundred (\$200.00) Dollars to be wired to the said Billy D. Miller in part payment of his services in the acts described herein.

/s/ WADE McCCLANAHAN
Wade McClanahan

SWORN TO AND SUBSCRIBED before me on this 2nd day of May, 1968, at Baton Rouge, Louisiana.

/s/ [Illegible]
Notary Public

[Certificate of Service omitted]

[Filed May 9, 1968]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Motion

RODERICK JENKINS, appearing through counsel, respectfully moves the court to issue a certificate as to its denial of movant's application for a temporary restraining order dated May 3, 1968, notice of which was given movant's counsel only on May 8, 1968, to the effect that said order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation.

J. MINOS SIMON
1408 Pinhook Road
Post Office Box 52116, OCS
Lafayette, Louisiana

/s/ J. MINOS SIMON
Attorney for Movant

Motion for certificate of probable Cause DENIED, May 9, 1968.

E. GORDON WEST
U. S. District Judge.

[Filed May 9, 1968]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Notice of Appeal

To: ASHTON L. STEWART
Special Assistant Attorney General
604 Union Federal Building
Baton Rouge, Louisiana 70801

PLEASE TAKE NOTICE that plaintiff in the captioned cause does hereby appeal from the judgment of the court rendered on May 3, 1968, whereby plaintiff's application for a temporary restraining order was denied, to the United States Court of Appeal, Fifth Circuit.

LAFAYETTE, LOUISIANA, this 9th day of May, 1968.

J. MINOS SIMON
1408 Pinhook Road
Post Office Box 52116, OCS
Lafayette, Louisiana

/s/ J. MINOS SIMON
Attorney for Plaintiff

[Filed May 13, 1968]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Designation of Record on Appeal

To: A. DALLAM O'BRIEN, Clerk
United States District Court
Eastern District of Louisiana
New Orleans, Louisiana

PLAINTIFF hereby designates for inclusion in the record on appeal the following:

1. All of the pleadings filed by the parties litigant, including plaintiff's original complaint, supplemental complaint with annexed affidavits, and defendants' answer and motion to dismiss.
2. All minute entries that will disclose all hearings had in connection herewith and any oral reason for judgment given by the court and such other matters as may be pertinent to this case.
3. The judgment appealed from.

J. MINOS SIMON
1408 Pinhook Road
Post Office Box 52116, OCS
Lafayette, Louisiana

/s/ J. MINOS SIMON
Attorney for Plaintiff

[Certificate of service omitted]

[Filed May 15, 1968]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

**Motion To Vacate and Set Aside Notice of Taking of Deposition:
To Examine by Written Interrogatories Rather Than Oral
Deposition: To Stay Taking of Examination**

John Julian McKeithen, one of the defendants, moves to vacate and set aside the notice of taking his deposition, served on his undersigned counsel at 3:30 P.M., May 14, 1968, by the plaintiff, to take his deposition at 1:30 P.M. on May 16, 1968, on the following grounds:

1.

The said notice to take the deposition of mover, who is Governor of the State of Louisiana, was served by the plaintiff with the sole purpose and intent of achieving notoriety and publicity.

2.

Mover, in the alternative, moves that if the court finds that his deposition be taken, it should only be taken upon written interrogatories so that it can be limited to matters relevant to this cause.

3.

Mover, in the further alternative, moves that if the court finds that his deposition be taken and that it should not only be taken upon written interrogatories, it should be stayed until the adjournment of the Legislature of Louisiana, which is presently in session and mover's time is so taken up with affairs of state as Governor of Louisiana,

and in connection with said session, as to make it impracticable to be deposed at this time.

BY ATTORNEYS,

JACK P. F. GREMILLION,
*Attorney General of the
State of Louisiana*

ASHTON L. STEWART,
*Special Assistant Attorney
General of Louisiana*

By /s/ ASHTON L. STEWART
Ashton L. Stewart,
Trial Attorney
604 Union Federal Building
Baton Rouge, Louisiana 70801
Telephone No. 342-4796

Attorney for Defendants

Motion to vacate and set aside notice of taking of depositions of def. John Julian McKeithen is GRANTED, and motion to stay the taking of said defendants' testimony by oral deposition or otherwise is GRANTED pending further order of this court.

Baton Rouge, La., May 15, 1968.

/s/ E. GORDON WEST
U. S. District Judge

[Certificate of service omitted]

[1]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

Docket No. 68-38

RODERICK JENKINS

versus

JOHN J. McKEITHEN, CECYL MORGAN, PAUL M. HEBERT,
FLOYD C. BOSWELL, RALPH E. HOWE, A. R. JOHNSON,
III, BURT S. TURNER, ET AL.

Argument of counsel re taking of the deposition of Roderick Jenkins, Plaintiff, pursuant to notice and subpoena, in the Bankruptcy Courtroom, 3rd Floor, Post Office Building, Baton Rouge, Louisiana, on the 15th day of May, 1968, commencing at 2:05 P.M.

APPEARANCES:

J. MINOS SIMON, Esq.,
1408 Pinhook Road,
Lafayette, Louisiana

For Plaintiff

ASHTON L. STEWART, Esq.,
of the firm of Laycock &
Stewart, Union Federal Building,
500 Laurel Street, Baton Rouge,
Louisiana

For Defendants

[2] Mr. Stewart: I call Mr. Jenkins.

Mr. Simon: Before we do that, Mrs. Parker, do you know who all is present in this room?

The Reporter: No. sir, I don't.

Mr. Simon: Register my request that the room—that all the persons in here be removed from the room, be excluded during the course of this deposition.

Mr. Stewart: Of course, there's no basis for that and we object to it.

Mr. Simon: Now, Mrs. Parker, I ask that you—if you'll be kind enough to identify or have each party rise or otherwise state his name and identify his position.

Mr. George: James A. George, assistant counsel, Labor-Management Commission of Inquiry.

Mr. Yelverton: Jack Yelverton, assistant attorney general.

Mr. Scullin: Kenneth Scullin. Don't show me as counsel in this case.

Mr. Oster: Joseph A. Oster, staff investigator, Labor-Management Commission of Inquiry.

Mr. George: Janet, I'm not counsel of record [3] in this case.

Mr. Lieux: John Lieux, research assistant, Labor-Management Commission.

Mr. Roberts: Harry Roberts, chief investigator Labor-Management Commission of Inquiry.

Mr. Curley: James Curley, staff investigator, Labor-Management Commission.

Mr. Ruiz: Raymond Ruiz, staff investigator, Labor-Management Commission of Inquiry.

Mr. Ross: Nick Ross, staff investigator, Labor-Management Commission of Inquiry.

Mr. Roussel: Edward Roussel, staff investigator, Labor-Management Commission.

Mr. Brandon: Roger Brandon, staff investigator, L.M.C.I., Labor-Management Commission of Inquiry.

Mr. Simon: Now, it is requested that all of these parties identified remove themselves from this room at this time,—

Mr. Stewart: And it's objected to.

Mr. Simon: —or else there will be no deposition given. Obviously these parties collectively represent the police force of the Labor-Management Commission of Inquiry, [4] as to which complaint is registered in this litigation as being involved in the deprivation of the legal rights of the plaintiff and those similarly situated, and their presence collectively, and under these circumstances, amounts

to an intimidation—police intimidation of the parties to the litigation. They are strangers to this litigation and, therefore, have no business in this room during the taking of this deposition.

Mr. Stewart: I'd like the record to show that we have interviewed and solicited information from everyone of these men with reference to the allegations made in this plaintiff's petition and in a supplemental petition and the affidavits that he has filed in this record, that they have been working with and assisting me in preparation for the trial, and that it is most important that they be here present to listen to this testimony for the purpose of properly assisting in the handling of the case when it is tried, and we request [5] that Mr. Jenkins now step forward and take the oath and subject himself to the deposition.

Mr. Simon: Mr. Jenkins will not take an oath and subject himself to an examination under these circumstances. He's here present to respond to your notice to take his deposition; he is willing to give his deposition, but he is, not willing to submit himself in the presence—or to the presence of these police officers at this time for the taking of the deposition.

Mr. Stewart: There's no difference between—

Mr. Simon: In other words,—

Mr. Stewart: —this case and the trial in open court. He's going to have to testify in one or the other and they are going to be present then because they are going to be witnesses.

Mr. Simon: Well, they'll be segregated, too; I'm quite certain of that.

Mr. Stewart: I'm not certain at all of that.

Mr. Simon: There's no point in arguing it any further, Mr. Stewart. That's my position and he's not going to testify.

[6] Mr. Stewart: You refuse to have him deposed?

Mr. Simon: Well, if you don't understand my statement, I can't amplify it for you any further. I've stated to you the fact that he would submit himself to the deposition in

response to the notice; he is here for that purpose, but he will not submit himself to examination in the presence of all of these police officers.

Mr. Stewart: Let the record so show, Mrs. Parker.

Mr. Simon: We are also here for the deposition of Mr. Wyatt. I'd like to have you call out to determine whether or not he is available, if you will be so kind, Mrs. Parker.

(The Reporter called for Mr. Wyatt at this time.)

The Reporter: There is no such person present.

Mr. Simon: I'll ask Counsel if—have you issued a subpoena for him?

Mr. Stewart: We have issued a subpoena for him. We also noticed counsel for plaintiff, and we would like to ask counsel for the plaintiff if it is not true that Mr. Wyatt has been working and assisting him in the [7] handling of this and other cases that he is now handling.

Mr. Simon: When you want to take my deposition, you comply with the rules provided for it, I'll be glad to consider your question at that time.

Mr. Stewart: Well, I'm asking you as a counsel of record because I want to submit this to the Court.

Mr. Simon: I'm telling you as counsel of record. If you want to take my deposition and comply with the rules I'll be very glad to consider that question.

Mr. Stewart: Well, we'll let the Court pass on that, Mr. Simon.

Mr. Simon: By all means. I'm in favor of that completely now.

Mr. Stewart: And I wish the reporter would note the hour now, too. We understand that he is not coming insofar as you know, Mr. Simon?

Mr. Simon: When you want to take my deposition and you comply with the rules, I'll be very glad to consider any questions that you have or that you wish to propound to me. [8] You can understand the rules as well—or you should, as well as I do or any other practicing attorney, so

don't—I don't want you to waste your time asking questions to me today.'

Mr. Stewart: I think I have a perfect right to ask you here now and I'm so asking you.

Mr. Simon: I disagree.

Mr. Stewart: Well, O.K.

Mr. Simon: Now, I take it that you are now abandoning your effort to take the deposition of the plaintiff.

Mr. Stewart: I'm going to submit the matter to the Court, Mr. Simon.

Mr. Simon: Well, all right. Now, we are here and of course the record speaks for what our position is and we now—we take leave of this room under the understanding that Mr. Stewart has declined and declines to proceed with the taking of the deposition of Mr. Jenkins, and he will do so only upon the insistence that all of those persons named heretofore remain present during the entire taking of this particular deposition. We reiterate at this time that Mr. [9] Jenkins is available, able and willing to give his deposition pursuant to notice, provided that the deposition be taken outside the presence of all these officials of the State of Louisiana.

Mr. Stewart: That's all, Mrs. Parker.

ADJOURNED AT 2:20 P. M.

10 State of Louisiana:

Parish of East Baton Rouge:

I, Janet L. Parker, Reporter within and for the Parish of East Baton Rouge, State of Louisiana, do hereby certify that the above and foregoing pages constitute a true and correct transcription of the argument of counsel which transpired re the taking of the deposition of Roderick Jenkins, Plaintiff, pursuant to notice and subpoena, in the Bankruptcy Courtroom, 3rd Floor, Post Office Building, Baton Rouge, Louisiana, on the 15th day of May, 1968, commencing at 2:05 P.M.

That J. Minos Simon, Esq., 1408 Pinhook Road, Lafayette, Louisiana, represented the plaintiff; and Ashton L. Stewart, Esq., of the firm of Laycock & Stewart, Union Federal Building, 500 Laurel Street, Baton Rouge, Louisiana, represented the defendants; and that each was present during the entire proceedings.

. That I am not an attorney or counsel for any of the parties, nor am I a relative or an employee of any attorney or counsel connected with this action, nor am I financially interested in this action.

Baton Rouge, Louisiana, this 15th day of May, 1968.

JANET L. PARKER

Reporter

Parish of East

Baton Rouge

State of Louisiana

[1]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
No. 68-38
RODERICK JENKINS
versus

JOHN JULIEN McKEITHEN, CECYL MORGAN, PAUL M. HESSNER,
FLOYD C. BOSWELL, RALPH F. HOWE, A. R. JOHNSON, III,
BURT S. TURNER, ET AL.

The deposition of Wade McClanahan, witness in the Federal Court Action, taken at the instance of defendants in the Federal Court Action in the Livingston Parish Courthouse, located at Livingston, Louisiana, commencing at 2:16 P.M., on the 17th day of May, 1968.

APPEARANCES:

For plaintiff

J. MINOS SIMON, Esq., 1408 Pinhook Road, Post Office Building 52116, OCS, Lafayette, Louisiana

For defendants

ASHTON L. STEWART, Esq., Special Assistant Attorney General, 604 Union Federal Building, Baton Rouge, Louisiana

For Wade McClanahan, Mrs. Imogene Coleman and Mrs. Wade McClanahan

DENNIS R. WHALEN, Esq., Attorneys Building, 300 Louisiana Avenue, Baton Rouge, Louisiana

AND

WILLIAM C. BRADLEY, Esq., 3022 Ray Weiland Drive, Baker, Louisiana

AND

G. EMMITTE CORE, Esq., 1926 Wooddale Boulevard, Baton Rouge, Louisiana

[2]

STIPULATION

It is agreed and stipulated by and between counsel for the parties in the case above numbered and entitled that the testimony of Wade McClanahan, witness in the Federal Court Action, may be taken at the instance of defendants in the Federal Court Action pursuant to notice before Janet L. Parker, reporter, on the 17th day of May, 1968, in the Livingston Parish Courthouse, Livingston, Louisiana, commencing at 2:16 P.M.; that the witness was sworn by Beatrice Lea, Deputy Clerk and ex-officio Notary Public in and for the Parish of Livingston, State of Louisiana; that the testimony shall be taken under oral examination and that the parties waive the usual delays as required by the Rules of Federal Procedure; that the reading and signing of the deposition are waived by the parties and by the witness; that excepting as otherwise stipulated in this stipulation, the said deposition shall be taken and may be used in the said Federal Court Action pursuant to any of the Rules of Federal Procedure relative thereto.

[3] Mr. Bradley: Mr. Stewart, before we start—and I'd like this on the record, please, Janet—there are a number of persons in the courtroom here, in the Livingston Parish courtroom, and I'd like either that those persons identify themselves for the record, or that they—if they will not identify themselves for the record then I'm going to object to their presence and object to the taking of this deposition unless they do so identify themselves. I recognize some of them, of course, but I do not know all of them, and I think I'm entitled to know the names and identities of the persons that are present in the courtroom and who they represent.

Mr. Stewart: I have no objection. We can start at that end of the table over there, the conference table.

Mr. Bradley: This, of course, is—

Mr. Core: Emitte Core, spelled E-m-i-t-t-e C-o-r-e.

Mr. Bradley: Of course, I'm William C. [4] Bradley.

Mr. Jenkins: Roderick Jenkins.

Mr. Stewart: Mr. Simon is attorney for the plaintiff here and I'm Ashton Stewart, attorney for the defendant.

Mr. George: James A. George.

Mr. Bradley: The gentlemen seated in the jury box?

Mr. Curley: James Curley, Staff Investigator, Labor-Management Commission of Inquiry.

Mr. Scullin: Scullin.

Mr. Bradley: Mr. Scullin, I presume, is Kenneth C. Scullin. Would you state your title please, Mr. Scullin?

Mr. Scullin: Assistant Attorney General.

Mr. Bradley: For the State of Louisiana.

Mr. Marionneaux: Barry Marionneaux, Attorney General's office.

Mr. Bradley: In what capacity, Mr. Marionneaux?

Mr. Marionneaux: Investigator.

Mr. Bradley: Mr. Hamilton.

Mr. Hamilton: Herbert Hamilton, State Police.

[5] Mr. Oster: Joseph A. Oster, Staff Investigator, Labor-Management Commission of Inquiry.

Mr. Brandon: Roger Brandon, Staff Investigator, Labor-Management.

Mr. Munson: I'm Richard Munson, State Editor of the *Morning Advocate*.

Mr. Bradley: And seated in the back of the courtroom, of course, is Mrs. Edgar L. Coleman and Mrs. Wade McClanahan.

Mr. Stewart: Would you state your capacity, Mr. Bradley?

Mr. Bradley: I'm representing Mr. McClanahan, as is Mr. Core and Mr. Dennis Whalen, who will be up in just a few moments.

Mr. Stewart: Fine.

The Reporter: Mr. Simon is representing—

Mr. Simon: Roderick Jenkins between us.

Wade McClanahan

The Witness, Wade, McClanahan, having first been duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Stewart:

Q. Give us your full name, please, sir. [6] A. Wade McClanahan.

Q. How old are you? A. 34 years old.

Q. What is your residence now? A. 914 Florida Boulevard, Denham Springs, Louisiana.

Q. How long have you lived there? A. I refuse to answer that question on the grounds that anything I might say—under the 5th Amendment—under my constitutional right of the 5th Amendment, anything I might say might be incriminating.

Q. What is your occupation? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Q. Where were you born, Mr. McClanahan? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Q. Do you belong to the Teamsters Local No. 5 Union? A. I refuse to answer that question under my constitutional right of the 5th Amendment, that anything I might say might be incriminating.

Q. Did you, on or about May 2nd, 1968, sign an affidavit before William C. Bradley, Notary Public of the Parish [7] of East Baton Rouge? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on anything I might say might be incriminating.

Q. In this affidavit did you or did you not state that you "was"—and I quote the word "was" rather than the word "is"—a member of the Teamsters Local Union No. 5? A. I refuse to answer that question under my con-

stitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Q. Well, do you know a Billy D. Miller? A. I refuse to answer that question under my constitutional right of the 5th Amendment, that anything I might say might be incriminating.

Q. Did you ever made a statement that Miller had attempted to work out an arrangement for you to testify to the truth with reference to Edward Grady Partin? A. I refuse to answer that, grounds under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Mr. Simon: Counsel, may I suggest that obviously he's going to take the 5th Amendment throughout. Why don't you ask [8] him if he intends to take it in answer to every question?

By Mr. Stewart:

Q. Are you going to take the 5th Amendment on every question that I might ask you with reference to this affidavit that you signed, dated May 2nd, 1968? A. I refuse to answer that question on the grounds that anything I say might be—I'll take the 5th Amendment on anything you ask me. Yes, sir.

Q. Anything I ask? A. Yes, sir.

Q. No matter.

Mr. Stewart: Well, next witness. That's the answer.

Mr. Scullin: Just a minute, Ashton.

Mr. Stewart: All right.

By Mr. Stewart:

Q. Have you ever worked with Billy D. Miller? A. I refuse to answer under my constitutional right of the 5th Amendment, on the grounds that anything that I might say might be incriminating.

Q. Did you ever tell Miller that Partin refused to pay you? A. I refuse to answer under my constitutional right

• of [9] the 5th Amendment, on the grounds that anything I might say might be incriminating.

Q. Did you particularly ever tell him that in the presence of others on April 1st, 1968? A. I refuse to answer that under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Q. Did you, on or about April 1st, 1968, shortly after breakfast, while at the Bellemont Motel in Baton Rouge, after talking over the telephone with Ed Partin, make the statement to those present, including one Miller, that you were afraid Ed Partin was going to set you up to kill you? A. I refuse to answer under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Q. Did you shortly thereafter, that is, on April 1st or 2nd, go to the residence of Edgar L. Coleman and get a rifle— A. I—

Q. —and take it from his house? A. —I refuse to answer under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

[10] Q. Did you take that rifle to your home and put it in your closet? A. I refuse to answer on the grounds of the 5th Amendment on—that anything I might say might be incriminating.

Q. Did you tell anyone on April 1st or 2nd and 3rd, that you were very concerned for the safety of your wife and children?

Mr. Bradley: I'm going to object to the form of the question unless it is couched in terms that would designate specifically as to whom "anyone" may have been. The question is too broad and the witness obviously cannot answer it.

Mr. Simon: And I'd like to ask the purpose of the question.

Mr. Stewart: The purpose of the question is as to his affidavit, as to whether he's telling the truth or not, to

find out the basis of the facts that you have filed in this affidavit, and we want to test its correctness.

Mr. Simon: By whether or not his wife and his children are in jeopardy from Ed Partin?

[11] Mr. Stewart: Well, whatever the basis of the question allows is the basis for attacking his credibility under his affidavit.

Mr. Simon: I object also to the form of the question. It's a leading question.

Mr. Stewart: Well, I'll rephrase the question.

A. (The witness did not reply.)

By Mr. Stewart:

Q. Did you ever tell anyone in the presence of Miller, Billy D. Miller, in the Parish of East Baton Rouge, especially at the Bellmont Motel, that you were concerned for the safety of your family and your wife and children?

Mr. Simon: That's a leading question. We object to it.

Mr. Bradley: I'm going to object to it additionally on the grounds that again he is asking the witness a question that he obviously cannot answer. He's asking him did he tell anyone, and I think the witness can only answer if he would designate and identify the [12] persons to whom he is referring by the generalization, "anyone."

A. (The witness did not reply.)

By Mr. Stewart:

Q. Well, did you tell Billy D. Miller that you were concerned for the safety of your wife and children?

Mr. Simon: Leading question. Object to it.

A. I refuse to answer that on the constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

By Mr. Stewart:

Q. Did you tell Billy D. Miller, on April 1st, 1968, that you were going to Dallas, Texas to turn evidence in against

Edward G. Partin? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Q. And that you were going to Dallas, Texas to get the Teamsters who were loyal to Hoffa, in order to give them that information? A. I refuse to answer—

Mr. Simon: Leading question. Object to—

A. —that question under my constitutional right of [13] the 5th Amendment, on the grounds that anything I might say might be incriminating.

By Mr. Stewart:

Q. Did you go to Dallas, Texas on or about this date?

Mr. Simon: Leading question. Object to it.

A. I refuse to answer under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

By Mr. Stewart:

Q. Do you have any kinfolks living in Dallas, Texas? A. I refuse to answer that under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Q. Have you ever lived in Dallas, Texas? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I say might be incriminating.

Q. Was your wife a native born and reared Dallas, Texas—

Mr. Simon: Leading question. I'm objecting to it.

A. I refuse to answer that question on the grounds that anything I might say might be incriminating.

[14] By Mr. Stewart:

Q. Did you go to your wife's father's restaurant in Dallas, Texas, on or about April 2nd, 1968, early in the morning, of that morning?

Mr. Simon: Object to it, on the grounds that it's a leading question.

A. (The witness did not reply.)

By Mr. Stewart:

Q. Will you answer the question? A. I plead the 5th Amendment.

Mr. Simon: And I'm—Counsel, you're not entitled to ask leading questions and you're persisting in it. Now, I think you might agree with me that all your questions are leading, and you persist in doing this, and if you continue to do so I will have to reach the conclusion that you're not propounding your questions in good faith, and I will interrupt the taking of the deposition on behalf of Mr. Jenkins for the purpose of getting a Court order to stop you from asking leading questions.

Mr. Stewart: Well, I want to ask nothing [15] but direct questions.

Mr. Simon: Well, you're not doing it, and I will—

Mr. Stewart: Well, I will rephrase them so that they will; they won't all satisfy you, I'm sure, but I'm going to try to do the best that I can—

Mr. Simon: Well, these—none has satisfied me thus far and you have not heeded my objection; you've gone right ahead, and you know that the form of the question which we're objecting to now cannot be waived, and I'm not just going to continue doing this. I've got to assume that you're not propounding them in good faith if you continue. You have been practicing too long not to know leading questions.

Mr. Stewart: Well, I'm sure you're an expert, Mr. Simon.

Mr. Simon: I hope that I am. I'd sure—

Mr. Stewart: The Courts have not always agreed with you.

Mr. Simon: —like to be one.

[16] By Mr. Stewart:

Q. Do you know a Mr. L. E. Samuel, of Grapevine, Texas? A. I plead the 5th Amendment, on the grounds that anything I say might be incriminating.

Q. Did you ever discuss your difficulties with Ed Partin with him in Grapevine, Texas,—

Mr. Simon: That's a leading— A. (The witness did not reply.)

By Mr. Stewart:

Q.—on or about April 2nd, 1968?

Mr. Simon: —that's a leading question, and not only that, your question assumes a set of facts not testified to, because your question assumes that he has had difficulty with Ed Partin, and there's not a word of evidence that he has had that.

Mr. Stewart: Well,—

Mr. Simon: Now, do you intend to withdraw that question, or persist in it?

Mr. Stewart: I intend to persist in the question because it is not objectionable on the grounds that you have said, because I've asked him previous questions; he has refused to answer.

[17] Mr. Simon: Yes, if you—

Mr. Stewart: If I can't assume something was the basis for a question, I can't ask a question.

Mr. Simon: You cannot assume anything as a basis for a question, because—

Mr. Stewart: Oh, yes, I can.

Mr. Simon: —that impregnates the question with the leading quality that is objectionable as to form.

Mr. Stewart: Well, let me go over it again. A. (The witness did not reply.)

By Mr. Stewart:

Q. Let me rephrase it for you. Have you ever had any difficulties with Ed Partin prior to going to—prior to on

or about April 2nd, 1968? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Q. Did you ever discuss with anyone that you had difficulties with Mr. Partin? A. I refuse to answer that question on the grounds that anything I might say might be incriminating.

[18] Q. Particularly, did you discuss with Mr. L. E. Samuel any difficulties you may have had with Partin? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I say might be incriminating.

Q. Did you ever tell Mr. L. E. Samuel in Grapevine, Texas, anything with reference to turning state's evidence against Mr. Partin? A. I plead the 5th Amendment on everything you ask me.

Q. Have you ever been convicted of a crime, Mr. McClanahan? A. I refuse to—

Mr. Simon: I'd like to ask the purpose of that question.

Mr. Stewart: Because it is—goes in with the next question I want to ask, because he was out on bond at the time he was in Grapevine, Texas, and he was making arrangements so that Mr. Partin would not yank him back in jail because Mr. Partin had signed his bond. It's tied in with the next question.

Mr. Simon: I hope so. I can't see how it is, but I'll wait.

[19] By Mr. Stewart:

Q. Have you ever been convicted of a crime? A. I refuse to answer this question under my constitutional rights of the 5th Amendment, on the grounds that anything I say might be incriminating.

Q. Are you presently charged with a crime? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I say might be incriminating.

Q. Were any criminal charges pending against you on or about April 2nd, 1968?

Mr. Simon: That's objectionable, because it's not material or relevant on discovery or otherwise.

Mr. Stewart: But it is—

Mr. Simon: And it's a leading question, also.

Mr. Stewart: —with reference to the next question.

Mr. Simon: Well, that—you can tandemly get your questions in if you can't do singly. A. (The witness did not reply.)

[20] By Mr. Stewart:

Q. Well, are you under any informations at the present time? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I say might be incriminating.

Q. Are you at liberty because of bonds having been posted for you because of any criminal prosecution? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I say might be incriminating.

Q. Did you discuss with Mr. Samuel in Grapevine, Texas, your problem of Mr. Partin having obtained these bonds for you? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I say may be incriminating.

Q. Did you receive a telephone call from your wife in the residence of Samuel, in Grapevine, Texas, on or about 11:30 A.M. of that day?

Mr. Simon: A leading question. It's objected to.

A. (The witness did not reply.)

By Mr. Stewart:

Q. Have you ever received a call from your wife, in [21] Grapevine, Texas? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I say might be incriminating.

Q. Have you ever been in Grapevine, Texas?

Mr. Simon: Mr. Stewart, would you agree that I would raise the objection as to form as to all your questions, so my rights will be preserved and I won't interrupt here?

Mr. Stewart: That's all right. I think my questions are more than clear the way I've been asking them.

Mr. Simon: Well, I'm not—I may be sympathetic with your position and your problem, but I'm worried about my client's rights.

Mr. Stewart: Well, I will agree that you need not repeat your objections—

Mr. Simon: So that you waive—in other words, we waive my obligation to object to any question as to form?

Mr. Stewart: To any remaining questions as to form.

[22] Mr. Simon: As to form. All right.

I'll let you go on.

A. (The witness did not reply.)

By Mr. Stewart:

Q. Have you ever had a telephone call from Mr. Partin while away from the City of Baton Rouge? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I say may be incriminating.

Q. Do you know Mr. Partin? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I say may be incriminating.

Q. Did you receive a telephone call from Mr. Partin in Grapevine, Texas, On April 3rd, 1968? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I may say may be incriminating.

Q. Did you have a conversation with Mr. Partin after you talked to your wife, if you talked to your wife? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I say may be incriminating.

Q. Did you immediately leave Grapevine, Texas to come [23] to Baton Rouge after talking to Mr. Partin on the telephone, if you talked to him on the telephone? A. I refuse to answer that question under my constitutional

right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Q. Have you ever traveled from Grapevine, Texas to Irving, Texas? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I say might be incriminating.

Mr. Stewart: I'd like for a minute recess, please.

(Two minute recess)

By Mr. Stewart:

Q. Do you know a man by the name of Joseph A. Oster? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I say might be incriminating.

Q. Have you ever talked to him? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Mr. Simon: Counsel, I suggest that the deposition be brought to a halt. He has [24] already announced his intention to take the 5th Amendment as to all the questions, and I can't see any use in your proceeding to propound or to proceed with prospective questions, and I don't know what you hope to establish by it in view of this announcement by the witness. May I ask you what you hope to establish by it if he won't answer your questions?

Mr. Stewart: I don't think he has a right to plead the 5th under most of the questions I've asked him. Certainly I will have a right to strike his affidavit from the record since he will not answer those questions that I have propounded to him.

Mr. Simon: Oh, I don't think you can affect the rights of the third party, any legal rights already established—

Mr. Stewart: When we don't have him for cross examination, we certainly do.

Mr. Simon: No, I don't think so.

Mr. Stewart: Well, let me ask him a few more questions; then I will terminate it.

[25] By Mr. Stewart:

Q. Did you ever have a conversation with Mr. Oster? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Q. Did you ever have a conversation with him about a hundred thousand dollar reward for turning state's evidence? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Q. Have you ever borrowed any money from Billy D. Miller? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Q. Did he ever give you any money? A. I refuse to answer that question under my constitutional right of the 5th Amendment, on the grounds that anything I might say might be incriminating.

Mr. Simon: Why don't you just adjourn the deposition and take a rule on it? I think he has to answer you as to the affidavit. I think he has waived his constitutional rights in that area.

[26] Mr. Stewart: I think so.

Mr. Simon: But I think you have to have a court order to do it.

By Mr. Stewart:

Q. You understand that we are going to ask the Court to hold you in contempt for refusing to answer the questions. A. (The witness did not reply.)

Mr. Simon: Well, I'm not going to agree with that at all. I don't think anybody has got a legal right at this stage to ask for contempt.

Mr. Stewart: Please call Mrs. Coleman.

Witness Excused—2:35 P.M.

[27] STATE OF LOUISIANA:

PARISH OF EAST BATON ROUGE:

I, Janet L. Parker, reporter within and for the Parish of East Baton Rouge, State of Louisiana, do hereby certify as follows:

That the witness, Wade McClanahan, was duly sworn by Beatrice Lea, Deputy Clerk and ex-officio Notary Public in and for the Parish of Livingston, State of Louisiana, to testify to the truth, the whole truth, and nothing but the truth, and that the foregoing deposition was taken by me and reduced to typewriting by me.

- That the aforesaid deposition constitutes a true record of the testimony given by the witness.

That J. Minos Simon, Esq., 1408 Pinhook Road, Post Office Building 52116, OCS, Lafayette, Louisiana, represented the plaintiff; Ashton L. Stewart, Esq., Special Assistant Attorney General, 604 Union Federal Building, Baton Rouge, Louisiana, represented the defendants; Dennis R. Whalen, Esq., Attorneys Building, 300 Louisiana Avenue, Baton Rouge, Louisiana, and [28] William C. Bradley, Esq., 3022 Ray Weiland Drive, Baker, Louisiana, and G. Emmitt Core, Esq., 1926 Wooddale Boulevard, Baton Rouge, Louisiana, represented Wade McClanahan, Mrs. Imogene Coleman and Mrs. Wade McClanahan; and that each was present during the entire examination.

That the deposition was held in the Livingston Parish Courthouse, Livingston, Louisiana, on the 17th day of May, 1968, commencing at 2:16 P.M.

That I am not an attorney or counsel for any of the parties, nor am I a relative or an employee of any attorney or counsel connected with this action, nor am I financially interested in this action.

Baton Rouge, Louisiana, this 17 day of May, 1968.

JANET L. PARKER

Janet L. Parker

Reporter

Parish of East Baton Rouge

State of Louisiana

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

No. 68-38

RODERICK JENKINS

versus

JOHN JULIEN McKEITHEN, CECYL MORGAN, PAUL M.
HERBERT, FLOYD C. BOSWELL, RALPH F. HOWE, A. R.
JOHNSON, III, BURT S. TURNER, ET AL.

The deposition of Mrs. Imogene Coleman, witness in the Federal Court Action, taken at the instance of defendants in the Federal Court Action in the Livingston Parish Courthouse, located at Livingston, Louisiana, commencing at 2:37 P.M., on the 17th day of May, 1968.

APPEARANCES:

For plaintiff

J. MINOS SIMON, Esq., 1408 Pinhook Road, Post Office Building 52116, OCS, Lafayette, Louisiana

For defendants

ASHTON L. STEWART, Esq., Special Assistant Attorney General, 604 Union Federal Building, Baton Rouge, Louisiana

For Wade McClanahan, Mrs. Imogene Coleman and Mrs. Wade McClanahan

DENNIS R. WHALEN, Esq., Attorneys Building, 300 Louisiana Avenue, Baton Rouge, Louisiana

and

WILLIAM C. BRADLEY, Esq., 3022 Ray Weiland Drive, Baker, Louisiana

and

G. EMMITTE CORE, Esq., 1926 Wooddale Boulevard, Baton Rouge, Louisiana

STIPULATION

It is agreed and stipulated by and between counsel for the parties in the case above numbered and entitled that the testimony of Mrs. Imogene Coleman, witness in the Federal Court Action, may be taken at the instance of defendants in the Federal Court Action pursuant to notice before Janet L. Parker, reporter, on the 17th day of May, 1968, in the Livingston Parish Courthouse, Livingston, Louisiana, commencing at 2:37 P.M.; that the witness was sworn by Beatrice Lea, Deputy Clerk and ex-officio Notary Public in and for the Parish of Livingston, State of Louisiana; that the testimony shall be taken under oral examination and that the parties waive the usual delays as required by the Rules of Federal Procedure; that the reading and signing of the deposition are waived by the parties and by the witness; that excepting as otherwise stipulated in this stipulation, the said deposition shall be taken and may be used in the said Federal Court Action pursuant to any of the Rules of Federal Procedure relative thereto.

[3]

Imogene Coleman

The witness, Mrs. Imogene Coleman, after having first been duly sworn to tell the truth, the whole truth, and nothing but the truth, so help her God, testified as follows:

By Mr. Stewart:

Q. Would you give us your full name, please, ma'am?
A. Mrs. Imogene Coleman.

Q. And what is your husband's name? A. Edgar L. Coleman.

Q. And what is your husband's name? A. Edgar L. Coleman.

Q. What was your maiden name? A. Wiley.

Q. Where do you live, Mrs. Coleman? A. 908 Florida Boulevard, Denham Springs, Louisiana.

Q. How long have you lived there? A. I do not desire to answer the question on the grounds I am married to

Edgar L. Coleman, and anything I say—I can't be compelled to testify against him.

Q. We are not after any evidence against Mr. Coleman at this time; and I will attempt to refrain from asking any questions that I know of that might involve Mr. Coleman. We are trying a lawsuit in which you have filed an affidavit, and I would like to examine you with reference to the facts which you have set forth in that affidavit. Do you know Mr. McClanahan, who just left the witness stand? A. I refuse to answer that question.

4 Q. On what grounds? A. On the grounds that I am legally married to Edgar L. Coleman, and anything I say—I can't be compelled to testify against him.

Q. Have you ever visited in the Wade McClanahan residence? A. I refuse to answer the question on the grounds that I am married to Edgar L. Coleman.

Q. Well, is your residence near the residence of Wade McClanahan residence? A. I refuse to answer the questions on the grounds that I am married to Edgar L. Coleman and I can't be compelled to testify against him.

Q. Did you sign an affidavit before William C. Bradley on May 2, 1968, in the parish of East Baton Rouge? A. I refuse to answer the question on the grounds that I am legally married to Edgar L. Coleman, and I can't be compelled to testify against him.

5 Q. Did you in that affidavit state that you witnessed the arrest of Mr. McClanahan? A. I refuse to answer the question on the grounds that I am married to Edgar L. Coleman and can't be compelled to testify against him.

Mr. Stewart: There are some additional people who have just come in. Would you please identify yourselves?

Mr. Whalen: I'm Dennis Whalen.

Mr. Stewart: We have just identified everybody in the courtroom; and we would like to ask these two men who have just come in what their names are.

One Unidentified Man: Is it necessary?

Discussion among counsel re identification of these two men, after which the men departed from the courtroom.

By Mr. Stewart:

Q. Have you ever visited in the McClanahan residence?

A. I refuse to answer the question on the grounds I am legally married to Edgar L. Coleman, who is under criminal charges, and I can't be compelled to testify against him.

Q. Were you visiting in the Wade McClanahan residence on or about 4:30 o'clock P.M. on April 29, 1968?

Mr. Bradley: Let the record show that Mr. Joseph Oster and Hubert Hamilton are apparently leaving the courtroom.

6. Mr. Oster: Yes, we are going to the bathroom.

Mr. Bradley: That's all right. Let the record reflect they are going to the bathroom.

A. (The witness did not reply.)

Off record discussion.

By Mr. Stewart:

Q. At the time of approximately 4:30 o'clock P.M., on April 29, 1968, if you were in the residence of the McClanahan's, did you see three men disembark from an automobile? A. I refuse to answer the question on the grounds I am legally married to Edgar L. Coleman, who is under criminal charges, and I can't be compelled to testify against him.

Mr. Simon: Is our agreement a continuing agreement that we waive the necessity of objecting to the form of the question?

Mr. Stewart: If you want to, yes, I will agree to that continuing objection.

By Mr. Stewart:

Q. If you had answered the previous question, and if that answer was that you had seen three men going into

7 the McClanahan home with firearms, could you tell us what kind of firearms they had? A. I refuse to answer the question on the grounds I am legally married to Edgar L. Coleman, who is under criminal charges, and I can't be compelled to testify against him.

Q. Do you recognize this man sitting in the front row, whose name is Brandon? A. I refuse to answer the question on the grounds I am legally married to Edgar L. Coleman, who is under criminal charges, and I can't be compelled to testify against him.

Q. Have you ever seen him before?

Mr. Simon: Who is that?

A. (The witness did not reply.)

By Mr. Stewart:

Q. Mr. Brandon? A. I refuse to answer the question on the grounds I am legally married to Edgar L. Coleman, who is under criminal charges, and I can't be compelled to testify against him.

Q. Was Mrs. McClanahan present in the home at that time? A. I refuse to answer the question on the grounds I am legally married to Edgar L. Coleman, who is under criminal charges, and I can't be compelled to testify against him.

Q. Was Mr. McClanahan in the home at that time? A. I refuse to answer the question on the grounds that I am legally married to Edgar L. Coleman, who is under criminal charges, and I can't be compelled to testify against him.

8 Mr. Bradley: Miss Janet, let the record indicate that Mr. Oster has returned to the courtroom along with Mr. Hamilton, and they both have very satisfied smiles on their faces, and I assume they have accomplished their purposes.

Mr. Core: Let the record reflect that I brought two gum balls while I was downstairs.

Mr. Simon: Let's let the record stop reflecting nonsense.

By Mr. Stewart:

Q. Did you see a warrant of arrest at that time? A. I refuse to answer the question on the grounds that I am legally married to Edgar L. Coleman, who is under criminal charges, and I can't be compelled to testify against him.

Q. Did you see anyone arrested at that time? A. I refuse to answer the question on the grounds that I am legally married to Edgar L. Coleman, who is under criminal charges, and I can't be compelled to testify against him.

Q. Was Mr. McClanahan arrested at that time? A. I refuse to answer your question on the grounds that I am legally married to Edgar L. Coleman, who is under criminal charges, and I can't be compelled to testify against him.

9 Q. Was Mr. Bradley, who is sitting at the table with counsel, present at that time? A. I refuse to answer the question on the grounds that I am legally married to Edgar L. Coleman, who is under criminal charges, and I can't be compelled to testify against him.

Q. Would you answer any questions if I asked you any other questions? A. I refuse to answer your question on the grounds that I am legally married to Edgar L. Coleman, and I can't be compelled to testify against him.

Mr. Stewart: We ask that the witness step down.

Witness excused at 2:46 P.M.

[10] STATE OF LOUISIANA:

PARISH OF EAST BATON ROUGE:

I, Janet L. Parker, reporter within and for the Parish of East Baton Rouge, State of Louisiana, do hereby certify as follows:

That the witness, Mrs. Imogene Coleman, was duly sworn by Beatrice Lea, Deputy Clerk and ex-officio Notary Public in and for the Parish of Livingston, State of Louisiana, to testify to the truth, the whole truth, and nothing but

the truth, and that the foregoing deposition was taken by me and reduced to typewriting by me.

That the aforesaid deposition constitutes a true record of the testimony given by the witness.

That J. Minos Simon, Esq., 1408 Pinhook Road, Post Office Building 52116, OGS, Lafayette, Louisiana, represented the plaintiff; Ashton L. Stewart, Esq., Special Assistant Attorney General, 604 Union Federal Building, Baton Rouge, Louisiana, represented the defendants; Dennis R. Whalen, Esq., Attorneys Building, 300 Louisiana Avenue, Baton Rouge, Louisiana, and [11] William C. Bradley, Esq., 3022 Ray Weiland Drive, Baker, Louisiana, and G. Emmitt Cere, Esq., 1926 Wooddale Boulevard, Baton Rouge, Louisiana, represented Wade McClanahan, Mrs. Imogene Coleman and Mrs. Wade McClanahan; and that each was present during the entire examination.

That the deposition was held in the Livingston Parish Courthouse, Livingston, Louisiana, on the 17th day of May, 1968, commencing at 2:37 P.M.

That I am not an attorney or counsel for any of the parties, nor am I a relative or an employee of any attorney or counsel connected with this action, nor am I financially interested in this action.

Baton Rouge, Louisiana, this 17 day of May, 1968.

JANET L. PARKER

Janet L. Parker

Reporter

Parish of East Baton Rouge
State of Louisiana

[1]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

No. 68-38

RODERICK JENKINS

versus

JOHN JULIEN McKEITHEN, CECYL MORGAN, PAUL M. HEBERT, FLOYD C. BOSWELL, RALPH F. HOWE, A. R. JOHNSON, III, BURT S. TURNER, ET AL

The deposition of Mrs. Wade McClanahan, witness in the Federal Court Action, taken at the instance of defendants in the Federal Court Action in the Livingston Parish Courthouse, located at Livingston, Louisiana, commencing at 2:47 P.M., on the 17th day of May, 1968.

APPEARANCES:

J. MINOS SIMON, Esq.,
1408 Pinhook Road, Post Office Building 52116,
OCS, Lafayette, Louisiana
For plaintiff

ASHTON L. STEWART, Esq.,
Special Assistant Attorney General,
604 Union Federal Building,
Baton Rouge, Louisiana
For defendants

DENNIS R. WHALEN, Esq.,
Attorneys Building, 300 Louisiana Avenue,
Baton Rouge, Louisiana

and

WILLIAM C. BRADLEY, Esq.,
3022 Ray Weiland Drive, Baker, Louisiana

and

G. EMMITTE CORE, Esq.,
1926 Wooddale Boulevard,
Baton Rouge, Louisiana
For Wade McClanahan,
Mrs. Imogene Coleman, and
Mrs. Wade McClanahan

[2]

STIPULATION

It is agreed and stipulated by and between counsel for the parties in the case above numbered and entitled that the testimony of Mrs. Wade McClanahan; witness in the Federal Court Action, may be taken at the instance of defendants in the Federal Court Action pursuant to notice, before Janet L. Parker, reporter, on the 17th day of May, 1968, in the Livingston Parish Courthouse, Livingston, Louisiana, commencing at 2:47 P.M.; that the witness was sworn by Beatrice Lea, Deputy Clerk and ex-officio Notary Public in and for the Parish of Livingston, State of Louisiana; that the testimony shall be taken under oral examination and that the parties waive the usual delays as required by the Rules of Federal Procedure; that the reading and signing of the deposition are waived by the parties and by the witness; that excepting as otherwise stipulated in this stipulation, the said deposition shall be taken and may be used in the said Federal Court Action pursuant to any of the Rules of Federal Procedure relative thereto.

[3] The Witness, Mrs. Wade McClanahan, after having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, so help her God, testified as follows:

By Mr. Stewart:

Q. Please give us your full name. A. Mrs. Wade McClanahan.

Q. What was your maiden name? A. Powers.

Q. Powers. What are your given names? A. Mary Lou.

Q. Are you married to Wade McClanahan? A. Yes.

Q. How long have you been married to him? A. I refuse to answer it. I decline to answer because anything I might say—you see, I am legally married to him—will be held against him.

Q. Where does your father live if he is living? A. I decline to answer any questions. Being legally married to Wade McClanahan, anything I might say will be held against him.

Q. Did you make an affidavit at the behest or request of Mr. Bradley or Mr. Simon with reference to the arrest of your husband?

Mr. Bradley: Are you through with the question?

[4] Mr. Stewart: Yes.

Mr. Bradley: I object to the form of the question as leading. There has been no evidence or statement or testimony that I know of that the affidavit was made at the behest of anyone. It is obviously leading and I object to the form of the question.

Mr. Stewart: Well, I don't think you have any right to object to the question, and I'm not going to pay any attention to any objection you make. Mr. Simon is counsel of record and you represent the witness and can only advise the witness.

A. (The witness did not reply.)

By Mr. Stewart:

Q. Will you answer the question, please, ma'am? A. I decline to answer any questions being legally married to Wade McClanahan, and anything I might say—

Mr. Bradley: Excuse me. Let me understand, Mr. Stewart. Do I understand you correctly that—did I understand you correctly that I am not to be permitted according to your understanding of the rule of procedure to interpose any objections to the questions [5] which you may ask?

Mr. Stewart: Not with reference to the lawsuit. You are talking about irrelevant and immaterial, such as that

Mr. Bradley: That's a matter of opinion and your opinion bears no particular weight as far as the law is concerned, sir.

Mr. Stewart: Neither does yours, Mr. Bradley, but that's for the Court to decide. If Mr. Simon, as the counsel of record, makes an objection, that's another proposition. He is a party to this lawsuit.

Mr. Simon: We have our continuing agreement.

Mr. Stewart: It's agreeable with me.

By Mr. Stewart:

Q. Have you ever seen Mr. Brandon, who is sitting in the front row over here? A. I decline to answer any questions.

Q. On April 29th, 1968, was your husband in bed at home, sick? A. I decline to answer any questions.

Q. Did you see your husband arrested on or about April 29, 1968? A. I decline to answer any questions; being legally married [6] to Wade McClanahan anything I might say—and I'm not compelled to answer it.

Q. Did you see any arresting officers at your house on or about April 29, 1968? A. I decline to answer any questions; being legally married to Wade McClanahan, I am not compelled to answer.

Q. Was the McClanahan house searched on a search warrant on or about April 29, 1968? A. I decline to answer any questions; being legally married to Wade McClanahan, I'm not compelled to answer.

Q. Will you answer any question I ask you from now on? A. I decline to answer any questions; being legally married to Wade McClanahan, I'm not compelled to answer them.

Q. That completes the deposition; that's all the questions we have.

Witness Excused at 2:50 P.M.

[7] State of Louisiana:

Parish of East Baton Rouge:

I, Janet L. Parker, reporter within and for the Parish of East Baton Rouge, State of Louisiana, do hereby certify as follows:

That the witness, Mrs. Wade McClanahan, was duly sworn by Beatrice Lea, Deputy Clerk and ex-officio Notary Public in and for the Parish of Livingston, State of Louisiana, to testify to the truth, the whole truth and nothing but the truth, and that the foregoing deposition was taken by me and reduced to typewriting by me.

That the aforesaid deposition constitutes a true record of the testimony given by the witness.

That J. Minos Simon, Esq., 1408 Pinhook Road, Post Office Building 52116, OCS, Lafayette, Louisiana, represented the plaintiff; Ashton L. Stewart, Esq., Special Assistant Attorney General, 604 Union Federal Building, Baton Rouge, Louisiana, represented the defendants; Dennis R. Whalen, Esq., Attorneys Building, 300 Louisiana Avenue, Baton Rouge, Louisiana, and [8] William C. Bradley, Esq., 3022 Ray Weiland Drive, Baker, Louisiana, and G. Emmitt Core, Esq., 1926 Wooddale Boulevard, Baton Rouge, Louisiana, represented Wade McClanahan, Mrs. Imogene Coleman and Mrs. Wade McClanahan; and that each was present during the entire examination.

That the deposition was held in the Livingston Parish Courthouse, Livingston, Louisiana, on the 17th day of May, 1968, commencing at 2:47 P.M.

That I am not an attorney or counsel for any of the parties; nor am I a relative or an employed of any attorney or counsel connected with this action, nor am I financially interested in this action.

Baton Rouge, Louisiana, this 17th day of May, 1968.

JANET L. PARKER

Janet L. Parker

Reporter

Parish of East Baton Rouge

State of Louisiana

[3]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

Civil Action 68-38

RODERICK JENKINS

VS.

JOHN JULIAN McKEITHEN, ET AL

NOTICE FOR DEPOSITION

• • • •

TO:

J. Minos Simon, Esq.
Simon Building
1408 Pinhook Road
Lafayette, Louisiana 70501
Attorney for Plaintiff,
Roderick Jenkins

Please take notice that the undersigned counsel for defendants proposes to take the deposition of Mr. George O. Wyatt, 5327 Cameron Boulevard, New Orleans, Louisiana, or c/o Bellmont Hotel, Baton Rouge, Louisiana, before an officer authorized to administer oaths under the laws of the State of Louisiana, in the Commissioner's Court Room, Third Floor, Civil Courts Building, New Orleans, Louisiana, at 10:00 o'clock A.M., Friday, May 31, 1968, or as soon thereafter as practicable.

Baton Rouge, Louisiana, May 23, 1968.

ASHTON L. STEWART

Ashton L. Stewart

Trial Attorney

604 Union Federal Building

Baton Rouge, Louisiana 70801

Telephone No. 342-4796

We hereby certify that we have this day mailed a copy of the above and foregoing notice to J. Mines Simon, Esq., Simon Building, 1408 Pinhook Road, Lafayette, Louisiana, attorney for plaintiff.

Baton Rouge, Louisiana, May 23, 1968.

ASHTON L. STEWART
Aston L. Stewart
Trial Attorney

[1]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

Civil Action 68-38

RODERICK JENKINS

vs.

JOHN JULIAN McKEITHEN, ET AL

PROCES-VERBAL

I, Leonard J. Bossier, Jr., an Official Court Reporter and Notary Public, duly commissioned, in and for the Parish of Orleans, State of Louisiana, do hereby certify that I did appear in the Commissioner's Court Room, Third Floor, Civil Courts Building, 421 Loyola Avenue, New Orleans, Louisiana, at 10:00 o'clock A.M., on Friday, May 31, 1968, for the taking of the deposition of Mr. George O. Wyatt, in the above entitled cause pursuant to the attached Notice;

That Mr. Ashton L. Stewart was present on behalf of all of the defendants in this cause;

That as of 10:30 A.M. Mr. George O. Wyatt, nor anyone representing him, had appeared, and I therefore called Mr. George O. Wyatt's name in the hall of the Civil District

Court, Parish of Orleans, State of Louisiana, and hearing [2] no response, whereupon I was discharged.

WITNESS my hand and official seal this 31st day of May, 1968.

LEONARD J. BOSSIER, JR.
Leonard J. Bossier, Jr.
Notary Public

[Filed May 31, 1968]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

**Motion To Vacate Plaintiff's Notice To Take Depositions of
Mrs. Sybil Fullerton, et al.**

Defendants move to vacate the notice by plaintiff dated May 29, 1968, to take the depositions on June 6 and 7, 1968, of Mrs. Sybil Fullerton, Johnson Robinson, James M. Buford, Jr., General David Wade and Bill Sidney Simpson, on the following grounds:

1.

Inasmuch as this complaint attacks the constitutionality of a Louisiana Statute which created a Commission of Inquiry limited to investigating and reporting, the testimony in connection with the parole of a convict of the members of the State Parole Board, the Director of the Department of Institutions and of such paroled convict, here sought to be deposed, are irrelevant to the subject matter, will not lead to discovery of any admissible evidence, and will not affect the outcome of this action.

2.

Copies of news articles in the Baton Rouge State-Times of May 29, 1968, and May 30, 1968, with reference to the parole of said convict are annexed hereto, and which

articles defendants aver, on information and belief, are the sole source of plaintiff's information as to the testimony of said witnesses.

3.

Defendants aver, on information and belief, that the real purpose for plaintiff's said notice for depositions is to secure notoriety and publicity.

BY ATTORNEYS,

JACK P. F. GREMILLION
*Attorney General of the
 State of Louisiana*

ASHTON L. STEWART,
*Special Assistant Attorney
 General of the State of
 Louisiana*

By /s/ ASHTON L. STEWART
 Ashton L. Stewart,
Trial Attorney
 604 Union Federal Building
 Baton Rouge, Louisiana 70801
 Telephone No. 342-4796

Attorneys for Defendants

[Certificate of Service omitted]

May 31, 1968—

In accordance with prior orders of this court, all further proceedings in this case are hereby, once again STAYED, pending further orders from this court and accordingly, this motion to vacate plaintiff's notice to take depositions of Mrs. Sybil Fullerton, et al, is hereby GRANTED.

/s/ E. GORDON WEST
U. S. District Judge.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Notice of Motion

To: J. Minos Simon, Esq.
Simon Building
408 Pinhook Road
Lafayette, Louisiana 70501
Attorney for Plaintiff,
Roderick Jenkins

Please take notice that the undersigned counsel for defendants will bring the motion to vacate plaintiff's notice to take depositions of Mrs. Sybil Fullerton, et als, filed May 29, 1968, in the captioned, on for a hearing before the Court, at o'clock ...M. on the day of, 1968, or as soon thereafterwards as counsel can be heard.

Baton Rouge, Louisiana, May 31, 1968.

BY ATTORNEYS,

JACK P. F. GREMILLION
*Attorney General of the
State of Louisiana*

ASHTON L. STEWART
*Special Assistant Attorney
General of the State of Louisiana*

By /s/ ASHTON L. STEWART
Ashton L. Stewart,
Trial Attorney
604 Union Federal Building
Baton Rouge, Louisiana 70801
Telephone No. 342-4796
Attorney for Defendants

[Certificate of service omitted]

[Filed June 3, 1968]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Notice To Attorneys

To: J. Minos Simon, Esq.
William C. Bradley, Esq.
Dennis R. Whalen, Esq.
Hon. Jack P. F. Gremillion
Victor A. Sachse, Esq.
Ashton L. Stewart, Esq.

Pursuant to instructions of the Honorable E. Gordon West and confirming telephone notice of June 3, 1968, please be advised that a hearing will be held in these consolidated cases on defendants' motion to dismiss at the U. S. Courthouse, 400 Royal St., New Orleans, La., Section "F", Room 221 on June 6, 1968, at 9:30 a.m.

A. DALLAM O'BRIEN, JR., Clerk
By C. H. BANTA
Deputy Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Minute Entry: June 6, 1968

AINSWORTH, J.

WEST, J.

MITCHELL, J.

Civil Action No. 68-38

Civil Action No. 68-42

These cases came on for hearing this day on defendants' motion to dismiss.

PRESENT:

J. Minos Simon, Esq.
Attorney for Roderick Jenkins

Dennis R. Whalen, Esq.
Attorney for Jerry Sylvester

Ashton L. Stewart, Esq.
Attorney for defendants

A waiver of the required five-day notice of this hearing to the Governor and Attorney General is filed by counsel for defendants.

The Court hears the arguments of counsel.

IT IS ORDERED that defendants' motion to dismiss be, and it is hereby, SUBMITTED.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Minute Entry: June 7, 1968

WEST, J.

Civil Action No. 68-38

This cause came on for hearing this day on defendants' motion for an order to compel plaintiff to attend for deposition and for expenses and attorney's fee.

PRESENT:

Jack Yelverton, Esq.
Attorney for defendants

Pending the determination by the three-judge court of defendants' motion to dismiss,

IT IS ORDERED that all other pending motions be, and they are hereby, DENIED, reserving to counsel the right to re-urge them.

• • • •
J. Minos Simon, Esq.
Ashton L. Stewart, Esq.

[Filed June 28, 1968]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

Civil Action Number 68-38

RODERICK JENKINS

VERSUS

JOHN JULIEN McKEITHEN, CECIL MORGAN, PAUL M. HERBERT,
FLOYD C. BOSWELL, RALPH F. HOWE, A. R. JOHNSON, III,
and BURT S. TURNER

Civil Action Number 68-42

JERRY SYLVESTER

VERSUS

CECIL MORGAN, THOMAS W. McFERRIN, and
WILLIAM V. REDMANN

AINSWORTH, Circuit Judge, and WEST and MITCHELL,
District Judges:

PER CURIAM:

These two suits, consolidated for hearing on motion to dismiss, attack the constitutionality of Act No. 2 of the First Extraordinary Session of the Louisiana Legislature for 1967. This Act, LSA-R.S. 23:880.1-880.18, provides for the creation and operation of what is known as the Labor-Management Commission of Inquiry. Since injunctive relief is sought in both cases based upon the alleged unconstitutionality of said Act, this three-judge district court was convened pursuant to Title 28 U.S.C.A. 2281 and 2284. A hearing on the motions to dismiss was held on June 6, 1968, and after careful study of the voluminous records and exhaustive briefs of counsel, it is the opinion of this Court that the motions to dismiss must be granted.

The constitutionality of this Act has been challenged previously in the state courts of Louisiana in the case of *Martone v. Morgan*, 207 So.2d 770, wherein the plaintiff was represented by the same attorney now representing the plaintiff Jenkins. At the district court level, Mr. Martone prevailed, but that decision was reversed in a well-written opinion by Mr. Justice E. Howard McCaleb of the Louisiana Supreme Court. We agree with the unanimous opinion of the Louisiana Supreme Court in *Martone* that the case of *Hannah v. Larche*, 363 U.S. 420, 80 S. Ct. 1502, 46 L.Ed. 2d 1307, is dispositive of the issues pertaining to the constitutionality of the Act here in question. The Act was properly analyzed by the Louisiana Supreme Court in *Martone* when it said:

"The Legislature of 1967, by Act 2 of the Extraordinary Session thereof (R.S. 23:880.1-880.18) created a commission denominated as the 'Labor-Management Commission of Inquiry' to investigate and find facts relating to violations or possible violations of the criminal laws of this State or of the United States arising out of or in connection with matters in the field of labor-management relations. According to the preamble to the act, this Commission of Inquiry was conceived and created to examine the causes for the unprecedented conditions existing in the State in the field of labor-management relations under which, by reason of suspected violations of the State and Federal criminal laws, there has been a shutdown of construction work involving industrial development projects furnishing employment to thousands of persons; that the present conditions vitally affect the public interest and threaten to disrupt the conduct of normal labor-management relations. It was further stated that, in view of the presently existing conditions, the public interest requires that the causes thereof be investigated on a statewide basis as a supplement to assist activities of the district attorneys, grand juries and other law enforcement officials and agencies of this State and of the United States.

"The body of the act, the Commission is created and invested with power to ascertain the facts sur-

rounding and pertaining to any actual or possible violations of the criminal laws relating to, arising out of or connected with problems or disputes in the field of labor-management relations. This power was limited however, the act declaring, ' * * * it shall be investigatory and fact finding only * * * ', and it was further provided that 'The commission shall have no authority to and it shall make no binding adjudication with respect to such violation or violations; * * *' and 'No findings, conclusions, recommendations or reports of the commission may be used as *prima facie* or presumptive evidence of the guilt or innocence of any person in any court of law.' Additionally, the act provides that the Commission ' * * * shall make and publicize its findings with respect to the question whether or not there is probable cause to believe that there are or have been violations of any criminal law * * *. Copies of its report shall be immediately furnished to the governor, the lieutenant governor, the attorney-general and the legislature.'

"After the membership on the Commission had been duly appointed and the body began to function conformably with the authority vested in it, plaintiff instituted the present suit for an injunction as a taxpayer to have the statute declared unconstitutional on various grounds which will hereinafter be set forth and discussed. The principal attack levelled by the plaintiff is that the act denies him due process as guaranteed by Section 2 of Article I of the Louisiana Constitution and the Fourteenth Amendment to the Constitution of the United States, because the powers vested in the Commission are such that, in their investigations and hearings authorized under the act, plaintiff and/or persons similarly situated are denied assistance of counsel, the right of confrontation, the right of cross-examination of witnesses and the right to compulsory process for their witnesses. The provisions of the act thus assailed have to do with the procedure rules set forth in the act for hearings by the Commission.

* * * * we direct our immediate attention to plaintiff's principal attack, and the holding of the trial

judge, that R.S. 23:880.1-880.18 denies plaintiff and those similarly situated due process under the State and Federal Constitutions in that it is an agency *** which makes determinations in the nature of adjudications affecting legal rights. *** Its duty in large part is to find that named individuals are responsible for criminal actions and to *advertise* (publicize) such findings and serve as part of the process of criminal prosecution.'

"This ruling, in our opinion, does not conform with the nature of the statute and the purpose for its enactment, for the Labor-Management Commission of Inquiry is not invested with any power to make adjudications affecting legal rights. On the contrary it is, as its provisions expressly set forth, an administrative commission (R.S. 23:880.1) created for the special purpose of investigating and finding facts in relation to violation of existing criminal laws *** affecting in a significant manner labor-management relations in one or more areas of the state *** in various construction projects which may, in the opinion of the Governor, operate as a serious threat to the economic well-being of the affected area or the State as a whole (R.S. 23:880.5). By Section 880.6(A) it becomes the duty of the Commission, when called on by the Governor to investigate and hold hearings, to receive testimony and documentary evidence and make findings with respect to any actual or probable violations of criminal laws which relate to the problems or disputes in the field of labor-management relations.

"Under the provisions of Section 880.7(A), the Commission is required to publicize its findings with respect to the question whether or not there is probable cause to believe that there have been violations of any criminal law arising out of the subject matter of its investigation. But it *** shall have no authority to and it shall make no binding adjudication with respect to such violation ***, however it may make such recommendations to the Governor for action as it deems appropriate, and copies of its report are to be furnished to the Governor, Lieutenant Governor, the Attorney General and the Legislature. Nevertheless its findings, recommendations and conclusions may

not be used as *prima facie* or presumptive evidence of guilt or innocence of any person in any court of law.

"It is seen from the foregoing that this administrative body has no right to adjudicate; it merely finds facts and recommends. Hence, it is difficult to perceive that these limited powers impinge upon any constitutional guarantee to which those being investigated are entitled under the Bill of Rights."

The Act here in question was obviously carefully drafted with *Hannah* in mind. Its provisions are carefully tailored along the lines of the statute creating the Commission on Civil Rights, 71 Stat. 634, 42 U.S.C. 1975-1975(e), 42 U.S.C.A. 1975-1975(e) which was at issue in *Hannah*, and we conclude that the holding there is completely dispositive of the constitutional question here involved. In *Hannah*, the court concluded:

"‘Due process’ is an elusive concept. Its exact boundaries are undefinable, and its content varies according to specific factual contexts. Thus, when governmental agencies adjudicate or make binding determinations which directly affect the legal rights of individuals, it is imperative that those agencies use the procedures which have traditionally been associated with the judicial process. On the other hand, when governmental action does not partake of an adjudication, as for example, when a general fact finding investigation is being conducted, it is not necessary that the full panoply of judicial procedures be used. Therefore, as a generalization, it can be said that due process embodies the differing rules of fair play, which through the years, have become associated with differing types of proceedings. Whether the Constitution requires that a particular right obtain in a specific proceeding depends upon a complexity of factors. The nature of the alleged right involved, the nature of the proceeding, and the possible burden on that proceeding, are all considerations which must be taken into account. An analysis of these factors demonstrates why it is that the particular rights claimed by the respondents need not be conferred upon those appearing before

purely investigative agencies, of which the Commission on Civil Rights is one.

"It is probably sufficient merely to indicate that the rights claimed by respondents are normally associated only with adjudicatory proceedings, and that since the Commission does not adjudicate it need not be bound by adjudicatory procedures. Yet, the respondents contend and the court below implied, that such procedures are required since the Commission's proceedings might irreparably harm those being investigated by subjecting them to public opprobrium and scorn, the distinct likelihood of losing their jobs, and the possibility of criminal prosecutions. That any of these consequences will result is purely conjectural. There is nothing in the record to indicate that such will be the case or that past Commission hearings have had any harmful effects upon witnesses appearing before the Commission. However, even if such collateral consequences were to flow from the Commission's investigations, they would not be the result of any affirmative determinations made by the Commission, and they would not affect the legitimacy of the Commission's investigative functions." 80 S. Ct. at 1514.

The following quote from *Hannah* is especially applicable here:

"On the other hand, the investigative process could be completely disrupted if investigative hearings were transformed into trial-like proceedings, and if persons who might be indirectly affected by an investigation were given an absolute right to cross-examine every witness called to testify. Fact finding agencies without any power to adjudicate would be diverted from their legitimate duties and would be plagued by the injection of collateral issues that would make the investigation interminable. Even a person not called as a witness could demand the right to appear at the hearing, cross-examine any witness whose testimony or sworn affidavit allegedly defamed or incriminated him, and call an unlimited number of witnesses of his own selection. This type of proceeding would make a shambles of the investigation and stifle the agency in its gathering of facts." 80 S. Ct. at 1515.

The plaintiffs in the instant cases have not been called as witnesses before the Commission, and to allow them, along with the many others whom they claim to represent, to cross-examine witnesses and present evidence to the Commission would certainly "make a shambles of the investigation and stifle the agency in its gathering of facts." We need but to look at the lengthy pleadings filed herein by plaintiffs to conclude that the court in *Hannah* was right when it said that if investigative hearings were transformed into trial-like proceedings the fact finding agency would be "plagued by the injection of collateral issues that would make the investigation interminable." For example, the plaintiff Jenkins alleges, *inter alia*, that the Governor of the State of Louisiana, together with members of the Labor-Management Commission, including the Dean of Louisiana State University Law School, the Dean of the Tulane Law School, the president of a local bank, and others "have * * * singled out for murder * * * six members of Teamsters Local No. 5 of Baton Rouge, Louisiana." He further alleges that these same gentlemen are using their "great arsenal of power" "to destroy the current power structure of the labor union aforesaid" (Teamsters Local No. 5 headed by one Edward Grady Partin) "and to install a new power structure oriented and subservient to the James R. Hoffa group or clique of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. The plaintiff Jenkins then alleges that these same defendants have caused the arrest of the said Edward Grady Partin on a charge of aggravated assault and that their action "is but a response to the announcement of the candidacy of Honorable Robert F. Kennedy for the nomination for the presidency of the United States by the Democratic Party of the United States, in that the conspirators herein are hoping thereby to induce Edward Grady Partin to recant his testimony heretofore given against James R. Hoffa, to be used as a basis to obtain a new trial for and the consequent release from prison of

James R. Hoffa prior to the democratic presidential nomination, so as thereby to thwart the nomination of the said Robert F. Kennedy who, as Attorney General of the United States, ordered and managed the prosecution and conviction of the said James R. Hoffa."

These are but examples of the twenty-one pages of allegations contained in the complaint filed herein by Jenkins. These are the issues that plaintiffs would like to inject into Commission hearings, and these are the issues plaintiffs would like to air out in open court before this tribunal. The entire history of these proceedings convinces this Court that plaintiffs are far more interested in obtaining a forum in which to publicize their extraordinary allegations than in obtaining an adjudication of issues pertaining to the constitutionality of the Act involved. We decline to allow them to do so here.

A careful reading of the Act shows that plaintiffs' analysis thereof, as set forth in rather strained and extreme terms in the complaints filed herein, is simply not an accurate analysis of the powers, duties, and functions of the Commission created thereby. We conclude instead, that as stated in *Hannah*:

" * * * the purely investigative nature of the Commission proceedings, the burden that the claimed rights would place upon those proceedings, and the traditional procedure of investigating agencies in general, leads us to conclude that the Commission rules of procedure comport with the requirements of due process." 80 S. Ct. at 1519.

While ordinarily it is only the question of the constitutionality of the state statute involved and whether or not injunctive relief in connection therewith should be granted that is before the three-judge court, nevertheless, where other issues are also involved, it is, to large extent, discretionary with the court as to whether or not such other issues will be resolved by the three-judge court. The test

is whether or not such issues as would ordinarily be heard by a single-judge court are so interrelated to the three-judge questions as to present one continuous transaction or set of operative facts. *Turner v. Goolsby*, 255 F. Supp. 724. In the instant case, in addition to alleging the unconstitutionality of Act No. 2 of the First Extraordinary Session of the Louisiana Legislature for 1967, plaintiff in the Jenkins case also alleges that the various actions of the Commission alleged in his complaint, including those hereinabove quoted, constituted a violation of his civil rights under Title 42 U.S.C.A. 1981, 1983, and 1988. These allegations are so intertwined with the question of the constitutionality of the Act itself that they are proper claims to be considered by this Court.

After having determined that the Act itself is constitutional, and that the procedures adopted by the Commission do not do violence to plaintiffs' constitutional rights, we now conclude that plaintiffs have not stated a claim for relief under Title 42 U.S.C.A., §§ 1981, 1983, or 1988.

Reduced to essentials, the plaintiff, Jenkins, claims that he, who has not been called before the Labor-Management Commission of Inquiry, has nevertheless, as a result of hearings held by that Commission, been charged under four certain bills of information filed by the District Attorney of Iberville Parish, Louisiana, with criminal conspiracy to commit a battery with a dangerous weapon on four different people, all in violation of certain state statutes. He alleges that these charges are false and that he is not guilty. He alleges that he has not been tried as speedily as he would like, even though his own allegations certainly indicate no real violation of his constitutional right to a speedy trial. He alleges that these charges against him resulted from improper actions on the part of the Labor-Management Commission of Inquiry, and that there is no justification whatsoever for them having been filed against him. In other words, he alleges that he is not guilty.

The plaintiff Sylvester merely claims that continued hearings by the Commission while charges are pending against him in Iberville Parish, Louisiana, will make it impossible for him to obtain an impartial jury for the trial of his case, and hence he seeks to have this Court enjoin all further hearings by the Commission so long as these charges against him are pending.

All of these allegations of both plaintiffs are merely potential defenses to the criminal charges pending against them and may be urged if and when they are brought to trial on those charges. This Court must assume that the courts of Louisiana before whom plaintiffs' cases are pending will perform their duty and will see that the plaintiffs are given a fair and impartial trial and that all of their constitutional and statutory rights are respected. Unless and until the contrary is shown, the allegations made herein by these plaintiffs are premature, and do not state a claim upon which this Court could or should grant relief. As stated by the United States Supreme Court in *Stefanelli v. Minard*, 342 U.S. 117, 96 L. Ed. 138, 72 S. Ct. 118; concerning intervention of the federal courts in cases of this kind:

"If we were to sanction this intervention, we would expose every state criminal prosecution to insupportable disruption. Every question of procedural due process of law—with its far-flung and undefined range—would invite a flanking movement against the system of State courts by resort to the federal forum, with review if need be to this Court, to determine the issue. Asserted unconstitutionality in the impaneling and selection of the grand and petit juries, in the failure to appoint counsel, in the admission of a confession, *in the creation of an unfair trial atmosphere*, in the misconduct of the trial court—all would provide ready opportunities which conscientious counsel might be bound to employ, to subvert the orderly, effective prosecution of local crime in local courts. To suggest these difficulties is to recognize their solution." (Emphasis supplied.)

Plaintiffs argue that the teaching of *Dombrowski v. Pfister*, 380 U.S. 479, 14 L. Ed. 2d 22, 85 S. Ct. 1116, is controlling here. We disagree. None of the special circumstances noted in *Dombrowski* appear here. *Dombrowski* held that the statute there under attack operated on its face to abridge the plaintiff's First Amendment right of freedom of expression. The court there found that to force the plaintiff to wait and urge his defenses during his state court criminal trial would result in "a substantial loss or impairment of freedom of expression" in the meantime. Such is not the case here. *Dombrowski* is inapplicable.

In passing, it is noted that the plaintiffs attempt to bring these suits as "class actions," claiming to represent themselves "and all others similarly situated." Suffice it to say that the requirements of Rule 23 of the Federal Rules of Civil Procedure are obviously lacking in these cases, and thus this Court must necessarily conclude that these suits involve only the claims of the individual plaintiffs named herein, and that plaintiffs' attempt to make these actions "class actions" must fail.

For these reasons, defendants' motions to dismiss each of these cases will be granted, and a decree will be entered accordingly.

Baton Rouge, Louisiana, June 26, 1968.

/s/ ROBERT A. AINSWORTH, JR.
Robert A. Ainsworth, Jr.,
Circuit Judge

/s/ E. GORDON WEST
E. Gordon West,
District Judge

/s/ LANSING L. MITCHELL
Lansing L. Mitchell,
District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

Civil Action No. 68-38

Civil Action No. 68-42

[Caption omitted]

Judgment

These consolidated cases came before a duly constituted three-judge court for a hearing on defendants' motions to dismiss, and the issues having been heard, the Court took time to consider. Now, in accordance with the per curiam opinion filed herein,

IT IS ORDERED AND ADJUDGED that judgment be entered herein in favor of defendants, John Julien McKeithen, Cecil Morgan, Paul M. Hebert, Floyd C. Boswell, Ralph F. Howe, A. R. Johnson, III, and Burt S. Turner, and against plaintiff, Roderick Jenkins, in Civil Action No. 68-38 and in favor of defendants, Cecil Morgan, Thomas W. McFerrin, and William V. Redmann, and against plaintiff, Jerry Sylvester, in Civil Action No. 68-42, dismissing plaintiffs' suits at their cost.

Baton Rouge, Louisiana, July 2, 1968.

/s/ ROBERT A. AINSWORTH, JR.
United States Circuit Judge

/s/ E. GORDON WEST
United States District Judge

/s/ LANSING L. MITCHELL
United States District Judge

[Filed July 11, 1968]

Designation of Record

To: **MR. A. DALLAM O'BRIEN, CLERK**
United States District Court
Eastern District of Louisiana
New Orleans, Louisiana

ATTENTION: **MR. C. H. BANTA, DEPUTY CLERK**
BATON ROUGE DIVISION

Plaintiff hereby designates for inclusion in the record
on appeal the following:

1. All the pleadings filed by the parties litigant.
2. All affidavits and supporting documents filed by the plaintiff in the captioned matter.
3. All minute entries that will disclose all the orders and judgments of the court in connection with the captioned matter.
4. The reasons for and judgment appealed from.
5. Notice of appeal and designation of record on appeal.

J. MINOS SIMON
1408 Pinhook Road
Post Office Box 52116, OCS
Lafayette, Louisiana

/s/ **J. MINOS SIMON**
Attorney for Plaintiff

[Filed July 11, 1968]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

Request for Certification and Transmission of Record on Appeal

RODERICK JENKINS, appearing through counsel, respectfully requests that Honorable A. Dallam O'Brien, Clerk, United States District Court, Eastern District of Louisiana, do certify the record in this cause and make provision for its transmission to the United States Supreme Court pursuant to the rules of that Court.

Lafayette, Louisiana, this 3d day of July, 1968.

J. MINOS SIMON
1408 Pinhook Road
Post Office Box 52116, OCS
Lafayette, Louisiana

/s/ J. MINOS SIMON
Attorney for Plaintiff

[Certificate of Service Omitted]

[Filed July 11, 1968]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

[Caption omitted]

Notice of Appeal

To: Mr. ASHTON L. STEWART, ESQUIRE
Attorney at Law
604 Union Federal Building
Baton Rouge, Louisiana
Attorney for Defendants

PLEASE TAKE NOTICE that Roderick Jenkins, plaintiff in the captioned proceeding, hereby appeals to the Supreme Court of the United States from the judgment of the United States District Court rendered in connection with the captioned matter on June 28, 1968, whereby plaintiff's lawsuit for injunctive relief was dismissed.

This appeal is taken under the provisions of Title 28, United States Code, Section 1253.

Lafayette, Louisiana, this 2nd day of July, 1968.

J. MINOS SIMON
1408 Pinhook Road
Post Office Box 52116, OCS
Lafayette, Louisiana

/s/ J. MINOS SIMON
Attorney for Plaintiff

[Certificate of Service Omitted]

**Act No. 2 of the First Extraordinary Session of the Louisiana
Legislature for 1967 (LSA-R.S. 23:880.1—880.18)**

AN ACT

To amend Chapter 8 of Title 23 of the Louisiana Revised Statutes of 1950, to add thereto a new Part, to be designated as Part III-A thereof and containing R.S. 23:880.1 through R.S. 23:880.18, both inclusive to create the Labor-Management Commission of Inquiry; to provide with respect to its composition, selection and other matters relating to the organization and functioning thereof; to fix the powers, duties and functions of said commission in connection with the investigation and findings of facts relating to violations or possible violations of criminal laws of the state of Louisiana or of the United States arising out of or in connection with matters in the field of labor-management relations, including the exercise of the subpoena power; the authority to take depositions; to authorize the commission to hold executive and public hearings; to provide with respect to the rights, privileges, duties and immunities of witnesses; to define certain misdemeanors and fix penalties therefore; to provide with respect to contempt committed before the commission or in connection with its process; to require cooperation with the commission by all public officials, boards, commissions, departments and agencies of the state and all political subdivisions thereof; to otherwise provide with respect to matters pertaining to the purposes for which said commission is created, and to appropriate the sum of Two Hundred and Fifty Thousand (\$250,000.00) Dollars, or so much thereof as may be necessary, out of the General Fund of the state of Louisiana for the fiscal year 1967-68 to the Labor-Management Commission of Inquiry, to be used by it for operations in connection with the purposes for which it is created.

WHEREAS, unprecedented conditions presently exist in the state under which there has been a shut-down of construction work involving industrial development projects,

giving employment to thousands of persons and vitally affecting the public interest and threatening the orderly conduct of normal labor-management relations; and

WHEREAS, in connection with the conditions above referred to there have been allegations and accusations of violations of the state and federal criminal laws which should be thoroughly investigated in the public interest; and

WHEREAS, in order to supplement and assist the efforts and activities of the several district attorneys, grand juries and other law enforcement officials and agencies of the State of Louisiana and of the United States, it is imperative that additional investigative facilities on a statewide basis be made available; and

WHEREAS, it is essential that immediate action be taken to empower the Governor in this existing situation and in any similar emergencies that may arise in the future promptly to initiate action by which the facts causing or contributing to such conditions may be investigated and other appropriate action taken when such investigation indicates probable violations of state or federal criminal laws. Now, therefore

Be it enacted by the Legislature of Louisiana:

Section 1. Part III-A of Chapter 8 of Title 23 of the Louisiana Revised Statutes of 1950, comprising R.S. 23:880.1 through R.S. 23:880.18, both inclusive, is hereby enacted to read as follows:

**PART III-A. LABOR-MANAGEMENT
COMMISSION OF INQUIRY**

§ 880.1 Labor-Management Commission of Inquiry; creation, vacancies, domicile

The Labor-Management Commission of Inquiry is created as a permanent commission, administratively, with the powers of inquiry hereinafter set forth only to be exer-

cised on an ad hoc basis as hereinafter provided. The commission shall be composed of nine members who shall be appointed by the governor and who shall serve at the pleasure of the governor. Three of the members shall be appointed from among the representatives of organized labor in Louisiana, three from industry located within Louisiana and three shall be Louisiana residents and representatives of the public generally. Any vacancy for any cause shall be filled by appointment by the governor in the same manner as above stated. Any temporary vacancy, including recusation of any member in any investigation, may be filled by the governor on an ad hoc basis.

The domicile of the commission shall be in the city of Baton Rouge, but meetings may be held at any place within the state.

§ 880.2 Officers of commission; secretary

The governor shall designate the chairman and vice-chairman, who shall be members of the commission. The governor's executive counsel shall serve as secretary to the commission and shall be the official custodian of all records of the commission, and in proper cases shall authenticate and certify to the accuracy thereof. He shall perform such other functions as are assigned by the commission.

§ 880.3 Compensation of members

The members of the commission shall receive no salary but each shall be paid a per diem of fifty dollars for each day of actual attendance at meetings of the commission and shall be paid at the rate of ten cents per mile for travel expenses incurred while on business for the commission.

§ 880.4 Quorum; vote necessary for actions

A majority of the members of the commission shall constitute a quorum. The affirmative vote of five members

of the commission shall be necessary for the commission to take any action.

§ 880.5. Referral of matters to commission by governor

Whenever, in the opinion of the governor, there is serious and substantial indication or there are widespread allegations that there is or may be widespread or continuing violations of existing criminal laws of the United States or of the state of Louisiana affecting in a significant manner labor-management relations in one or more areas of the state and that, as a result thereof, there exists a serious threat to the economic well-being of the affected area or the state as a whole, he may refer the matter to the commission in writing for such action as it is hereinafter authorized to take.

§ 880.6. Public hearings, jurisdiction of commission

A. Whenever the governor refers any matter to the commission, it shall, as expeditiously as practicable, investigate and hold hearings at which it shall receive testimony and documentary evidence, or either of them, and it shall ascertain the facts surrounding or pertaining to and shall make findings with respect to any actual or probable violations of the criminal laws of this state or of the United States which relate to, arise out of or are connected with problems or disputes in the field of labor-management relations. The power, authority or jurisdiction of the commission in the conduct of any investigation and also during the course of any executive session or public hearing held by it shall be investigatory and fact finding only and shall be limited to matters which have been referred to it by the governor and which are or may be violations of the criminal laws of the United States or of this state which relate to, arise out of or are connected with problems or disputes in the field of labor-management relations.

B. The commission shall have no power, authority or jurisdiction to investigate, hold hearings or seek to ascer-

tain the facts or make any reports or recommendations on any of the strictly civil aspects of any labor problem or dispute, but inquiry into alleged criminal acts shall not be improper because recital thereof may reflect upon some civil aspects thereof, and its power, authority or jurisdiction shall in no case extend to (1) any matters which is solely an "unfair labor practice" or an "unfair employment practice" or a legitimate labor dispute under the provisions of any federal or state law; or (2) any matter which relates to legitimate economic issues arising between labor and management or the manner in which such labor practices or economic issues are to be settled between the parties, whether by negotiation, arbitration, lockout or strike; or (3) any matter which relates solely to the internal affairs of labor organizations, including but not necessarily restricted to membership policies, election procedures, membership rights and like matters; or (4) any alleged acts of violence or threats of violence or so-called "mass picketing," or like conduct by either an employer or a union, which is not related to bribery or extortion, as defined by law, but which is related only to an organizational objective of a labor union or which is related only to furthering the interests of one side or the other in a "labor dispute," as that term is defined by federal or state law, such conduct being already regulated by and subject to the police power of the state, exercised through such agencies as the Division of State Police; or (5) any matter which relates solely to the internal affairs of any business organization, including but not necessarily restricted to its labor and business policy and general operations; or (6) any matters which constitute a combination of any two or more of these. In addition, the commission shall have no power, authority or jurisdiction to file, intervene in or in any manner participate in any civil judicial proceedings, except for the purpose of seeking the enforcement of a subpoena issued by it in accordance with the provisions of this Part, or except for the institution of

contempt proceedings as provided in this Part or except when the commission has been made a defendant in any civil suit.

C. Upon the request of the governor, the commission may assign all or part of its investigatory forces to the State Police to assist them in investigating any violations or probable violations of law and in apprehending all persons engaged in violation of law. During such assignment such investigators shall be under the supervision of the Director of the Department of Public Safety and have all the power and authority of other members of the State Police.

D. All public officials, personnel, employees and agents of all boards, commissions, departments and agencies of the state and of the political subdivisions of the state shall cooperate fully with the commission, to the end that it may effectively and comprehensively carry out its functions and duties.

§ 880.7. Findings; recommendations to governor; criminal charges; interim reports

A. Upon the completion of its investigations and after public hearing the commission shall make and publicize its findings with respect to the question whether or not there is probable cause to believe that there are or have been violations of any criminal law or laws of the United States or of the state of Louisiana arising out of or in connection with or as a result of the matter which is the subject of the investigation. The commission shall have no authority to and it shall make no binding adjudication with respect to such violation or violations; however, it may, in its discretion, include in its findings the conclusions of the commission as to specific individuals or as to the general situation, or as to both, and it may make such recommendations for action to the governor as it deems appropriate. Copies of its report shall be immediately furnished to the governor, the lieutenant governor, the attorney-general and

the legislature. No findings, conclusions, recommendations or reports of the commission may be used as *prima facie* or presumptive evidence of the guilt or innocence of any person in any court of law.

B. If the commission finds that there is probable cause to believe that there has been a violation of any criminal law of the United States or of this state and that such violation arises out of or in connection with or as a result of a problem or dispute in the field of labor-management relations, it shall report its findings and recommendations to the proper federal and state authorities, or either of them, charged with the responsibility for prosecution of criminal offenses. In addition, when directed to do so by the commission, the chairman shall file appropriate charges with the state and federal authorities having jurisdiction.

C. The commission shall make interim reports of its findings to the governor at such times as the commission or the governor may deem desirable.

D. With respect to any of its findings, the commission may request the governor to refer the matter to the attorney general asking that he exercise the full authority conferred by Article VII, Section 56 of the Constitution in causing criminal prosecutions to be initiated in accordance with law.

§ 880.8. Powers of commission

In order to carry out the functions vested in it the commission may:

(1) Adopt, amend, publish and enforce such rules and regulations, not inconsistent with the provisions of this Part, as it deems necessary to fully effectuate the purposes for which it is created.

(2) Employ and fix the duties and compensation of such attorneys, investigators, staff personnel and other persons and make such other expenditures as it finds necessary to

accomplish the purposes of this Part; provided that all salaries and compensation fixed by the commission shall be approved by the governor.

(3) Administer oaths or affirmations, subpoena witnesses, compel their attendance, examine them under oath or affirmation and require the production of books, records, documents or other evidence deemed relevant or material to any executive session or public hearing held or deposition taken by the commission, but only at such executive session, public hearing or at the time of taking the deposition. The power herein granted to issue subpoenas and compel attendance of witnesses and the production of books, records, documents or other evidence shall be exercised in accordance with the provisions of Section 880.9 of this Part.

(4) Order testimony to be taken by deposition in cases where the commission determines that a witness is incapacitated, and by virtue thereof, unable to attend the hearing or to appear in person before the commission during the course of an executive session or a public hearing, or is outside the boundaries of the state of Louisiana. Such depositions may be taken before any person designated by the commission who is authorized to administer oaths. Unless otherwise ordered by the commission, such depositions shall be filed at the public hearing and be made part of the record. Testimony by deposition may be taken within or without the state. If taken within the state subpoena may issue from the commission compelling attendance and production of records. If taken without the state, the commission may apply to the district court having jurisdiction over the area where the commission is holding an executive session or public hearing, or to the district court in and for the parish of East Baton Rouge, for an order directing the taking of the deposition, in the manner provided by law for the taking of foreign depositions in judicial proceedings.

Testimony taken by deposition shall be reduced to writing by the person taking the deposition, or under his direction, and shall be subscribed by the deponent.

(5) Do and perform any other things necessary to accomplish the purposes for which it is created.

§ 880.9. Service of subpoenas; returns; failure to comply; contempt of commission.

A. Subpoenas issued under authority of Paragraph (3) of Section 880.8 of this Part shall be served by domiciliary or personal service and may be served by any sheriff, deputy sheriff or employee designated by the commission. Domiciliary service shall be made by leaving the subpoena at the dwelling house or usual abode of the witness, with a person of suitable age and discretion residing therein as a member of the domiciliary establishment of the witness, or at any place where the business of the witness is regularly conducted, with a person of suitable age and discretion there employed. Subpoenas for the production of documents shall be served in a similar manner. The person making the service of any subpoena shall make a return thereon, setting forth the date, place, type of service and sufficient other data to show service in compliance with this Section. The return shall be signed and promptly returned to the commission.

B. (1) In the event any person fails or refuses to obey a subpoena issued in accordance with the provisions of this Part, the commission may present its petition to any state district court within the jurisdiction of which the hearing is held or within the jurisdiction of which the person is found or resides or has his principal place of business, setting forth the facts. The court then shall have the power to compel such person to appear before the commission and give testimony or produce evidence as ordered. Any failure to obey such an order of the court may be pun-

ished by the court issuing the same as a contempt thereof. In addition, if any person commits any act which is contemptuous of any authority vested in the commission or of any procedure taken by the commission in conformity with the powers vested in it by the provisions of this Part, the commission may present its petition, setting forth the facts, to any state district court within the jurisdiction of which the hearing is held or within the jurisdiction of which the person is found or resides or has his principal place of business. Upon a finding guilt, such person shall be adjudged in contempt of the commission and shall be punished by the court as a contempt of court.

(2) Contempt of the commission shall include but shall not be limited to any of the following acts:

(a) Contumacious failure to comply with a subpoena to appear before the commission, proof of service of which appears of record;

(b) Contumacious violation of an order excluding or separating a witness;

(c) Refusal to take the oath or affirmation as a witness, or refusal of a witness to answer a relevant question when ordered to do so by the commission, or refusal to answer any other question when granted the immunity conferred by Section 880.13 of this Part.

(d) Contumacious, insolvent or disorderly behavior toward the commission, any member thereof or its attorney during the course of any executive session or public hearing, which tends to interrupt or interfere with the business of the commission or to impair its dignity or respect for its authority;

(e) Breach of the peace, boisterous conduct or violent disturbance tending to interrupt or interfere with the busi-

ness of the commission or to impair its dignity or respect for its authority;

(f) Use of insulting, abusive or discourteous language by an attorney or other person at any hearing or in a document filed with the commission.

C. The chairman or other presiding officer may punish breaches of order or of decorum by censure or by exclusion from the hearing, or by both.

§ 880.10. Rights of witnesses; right to counsel

A. No person may be required to appear or to testify at any executive session or public hearing held by the commission or give a deposition unless a copy of this Part and a general statement of the subject of the investigation has been served upon him prior to the time when he is required to appear or to give a deposition.

Provided, however, that in the event a witness objects to a question or a series thereof or to the subpoena on the ground that he has not been given sufficient information as to the subject of the investigation, such objection shall be submitted to the commission, and in the event that the commission determines that the objection has merit, the commission shall inform the witness adequately as to the purpose of the investigation and shall afford the witness reasonable additional time within which to prepare for the hearing. If the commission determines by majority vote that the objection is without merit, such ruling shall be final, and the witness shall be ordered to answer the questions of the commission or to comply with the subpoena. If the witness fails or refuses to comply with the order of the commission or fails or refuses to comply with the order of the commission after the lapse of such additional time as the commission may have granted him within which to comply after further advising him of the nature of the inquiry, the commission shall exercise its powers set forth in Section 880.9 of this Part.

B. A witness summoned to appear before the commission shall have the right to be accompanied by counsel, who may advise him of his rights, subject to such reasonable limitations as the commission may impose in order to prevent obstruction of or interference with the orderly conduct of the hearing. Counsel for any witness who testifies at an executive session or at a public hearing may question the witness he accompanies concerning relevant matters. In no event shall counsel for any witness have any right to examine or cross-examine any other witness but he may submit to the commission proposed questions to be asked of any other witness appearing before the commission, and the commission shall ask the witness such of the questions as it deems to be appropriate to its inquiry.

§ 880.11. Witness fees

Witnesses summoned to appear before the commission shall be paid the same fees and mileage as are allowed by law for witnesses in criminal cases.

§ 880.12. Evidence and testimony at executive and public sessions; protection of witnesses; penalties

A. The commission shall base its findings and reports only upon evidence and testimony given at public hearings. Prior to and at any time during or subsequent to the conduct of a public hearing the commission may go into executive session. It shall go into executive session upon the request of any member of the commission who states that in his opinion evidence or testimony being given or to be given at a public hearing may tend to degrade, defame or incriminate any person. In such executive session it shall afford the person who might be degraded, defamed or incriminated an opportunity to appear and be heard in the executive session, with a reasonable number of additional witnesses in his behalf requested by him, before deciding to receive such evidence or testimony in public hearing. If the commission should decide that such evidence or testi-

mony should be heard in a public hearing, the eviednce must be offered and filed anew in the public hearing and the testimony of the witness must actually be given at the public hearing, both without reference to the fact that the commission previously had viewed the evidence in executive session or heard the same or other testimony of the witness in executive session.

Should the commission determine to receive such evidence or testimony in public hearing, the person who might be degraded, defamed or incriminated thereby shall be given an opportunity at the public hearing to appear as a voluntary witness, or to file a sworn statement in his own behalf and submit brief, pertinent, sworn statements of others, or to submit to the commission a list of such persons as he may wish to have subpoenaed as additional witnesses. The actual issuance of any additional subpoenas shall be in the discretion of the commission.

B. It shall be a misdemeanor for any member of the commission, its counsel or employees, to make public any evidence or testimony taken at a private investigation or at any executive session. Whoever violates this Subsection shall be fined not more than one thousand dollars or be imprisoned for not more than one year, or both.

C. Any person whose name is mentioned or who is specifically identified and who believes that testimony or other evidence given at a public hearing or comment made by any member of the commission or its counsel at such a hearing tends to defame him or otherwise adversely affect his reputation shall have the right either to appear personally before the commission and testify in his own behalf as to matters relevant to the testimony or other evidence complained of or, in the alternative at the option of the commission, to file a statement of facts under oath relating solely to matters relevant to the testimony or other evidence complained of, which statement shall be incorporated in the record of the investigatory proceeding.

§ 880.13. Immunity of witnesses

Whenever in the judgment of the commission the testimony of any witness, or deposition thereof, or the production of books, papers or other evidence by any witness, in any matter pending before it, is necessary to the public interest and the proper discharge by the commission of its duties imposed by this Part, the commission may make application to the district court having jurisdiction over the place where the hearing is being held, or to the district court in and for the parish of East Baton Rouge, requesting that the witness be instructed to testify, depose or produce evidence subject to the provisions of this Part, and upon order of the court such witness shall not be excused from testifying or depositing, or from producing books, papers or other evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. However, no such witness so ordered by the court shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify, depose or produce evidence, nor shall testimony so compelled be used as evidence in any criminal proceeding against him in any court except for a prosecution for perjury or contempt committed while giving testimony, or while deposing or producing evidence under compulsion as provided herein.

§ 880.14. Misdemeanors and penalties

Whoever:

- (1) Uses or attempts to use violence, force or threats, with the intent to influence the testimony or conduct of any witness or person about to be called as a witness at any hearing before the commission, whether in executive session or a public hearing, or in connection with any investigation ordered by the commission; or

(2) Uses or attempts to use violence, force or threats to the person, his family, or property of any witness on account of his having attended any session or hearing or investigation, or on account of his testifying or having testified with respect to any pending matter; or

(3) With intent to avoid, evade, prevent or obstruct compliance, wholly or partially, with any subpoena issued by the commission, removes from any place, conceals, destroys, mutilates, alters or by any means falsifies any documentary material subject to such subpoena; or

(4) By force or threats, or by wilful acts prevents, obstructs, impedes or interferes with, or attempts to prevent, obstruct, impede or interfere with the due exercise of rights or the performance by the commission of its duties as imposed by this Part shall be guilty of a misdemeanor and upon conviction shall be fined not more than two thousand dollars or be imprisoned for not more than two years, or both.

§ 880.15. Records of hearings

A. A complete and accurate record shall be kept of each public hearing, and any witness shall be entitled to a copy of his testimony at such hearing, at his own expense.

B. The records of any public hearing held by the commission, when properly authenticated and attested by the secretary of the commission, are public records and shall be subject to the provisions of Chapter 1 of Title 44 of the Louisiana Revised Statutes of 1950, as amended.

§ 880.16. Immunity of commission members and employees

No action, proceeding or decision of the commission, or any of its members or employees in the exercise of its duties, functions and obligations in conformity with the provisions of this Part, shall subject any member or em-

ployee thereof to any suit or liability for damages in connection therewith.

§ 880.17. Budget unit of state; reversion of funds

The commission shall be a separate budget unit of this state, as defined by law, and as such shall be subject to the provisions of Title 39 of the Louisiana Revised Statutes of 1950, as amended, and all other laws relating or applicable to budget units. Any funds appropriated to the commission which remain unexpended and unencumbered at the close of any fiscal year shall be remitted to the state general fund in accordance with law.

§ 880.18. Liberal construction; exclusion from Administrative Procedure Act

The provisions of this Part shall be liberally construed to effectuate the purpose for which it was enacted. The provisions of Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950, as amended, shall not apply to the Labor-Management Commission of Inquiry.

Section 2. The sum of Two Hundred Fifty Thousand (\$250,000.00) Dollars, or so much thereof as may be necessary, is hereby appropriated out of the General Fund of the state of Louisiana for the fiscal year 1967-1968 to the Labor-Management Commission of Inquiry, to be used by said Commission for operations in connection with the purposes for which it is created.

Section 3. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not effect other provisions, items or applications of this Act which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this Act are hereby declared severable.

Section 4. All laws or parts of laws in conflict herewith are hereby repealed.

Section 5. The necessity for the immediate passage of this Act having been certified by the governor to the legislature while in session, in accordance with Section 27 of Article III of the Constitution of Louisiana, this Act shall become effective immediately upon approval by the governor.

/s/ VAIL M. DELONY

Speaker of the House of
Representatives

/s/ C. T. Aycock

Lieutenant Governor and
President of the Senate

/s/ JOHN J. McKEITHEN

Governor of the
State of Louisiana

APPROVED: July 22, 1967, at 10:52 A.M.